

Anoinette Fett

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN - SOUTHERN DIVISION
3
4 THE ESTATE OF MARIA PEROVICH,
5 VICTOR GOJCAJ,
6 Plaintiffs,
7 -vs- No. 2:09-CV-12192-PJD-VMM
8 Hon. Patrick J. Duggan
9 STERLING HEIGHTS POLICE OFFICER
10 ANTOINETTE FETT, STERLING HEIGHTS
11 SERGEANT DAVID CATTANEO, STERLING
12 HEIGHTS POLICE OFFICER AARON BURGESS
13 AND CLINTON TOWNSHIP POLICE
14 DETECTIVE LEO MELISE
15 Defendants.

16 _____/

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20 The Deposition of OFFICER ANTOINETTE FETT,
21 Taken at 12900 Hall Road,
22 Sterling Heights, Michigan,
23 Commencing at 9:30 a.m.,
24 Friday, March 19, 2010,
25 Before Rhonda M. Foster, RMR, RPR, CSR-3612.

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1 APPEARANCES:

2 MR. PATRICK J. McQUEENEY P45797

3 Law Offices of Patrick J. McQueeney

4 33830 Harper Avenue

5 Clinton Township, Michigan 48035

6 (586) 774-6363

7 Appearing on behalf of the Plaintiffs.

8 MR. MARC D. KASZUBSKI P60333

9 O'Reilly Rancilio, P.C.

10 12900 Hall Road, Suite 350

11 Sterling Heights, Michigan 48313

12 (586) 726-1000

13 Appearing on behalf of the Defendants Sterling

14 Heights Police Officer Antoinette Fett,

15 Sergeant David Cattaneo, and Officer Aaron

16 Burgess.

17 MR. PETER W. PEACOCK P37201

18 Plunkett Cooney

19 10 South Main Street, Suite 400

20 Mount Clemens, Michigan 48043

21 (586) 466-7605

22 Appearing on behalf of the Defendant Clinton

23 Township Detective Leo Melise.

24 Also Present: Victor Gojcaj

25 Linda McGrail

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1 Sterling Heights, Michigan

2 Friday, March 19, 2010

3 About 9:48 a.m.

4 OFFICER ANTOINETTE FETT,
5 having first been duly sworn, was examined and
6 testified on her oath as follows:

7 MR. McQUEENEY: Let the record
8 reflect this is the deposition of Sterling Heights
9 Police Officer Antoinette Fett.

10 THE WITNESS: Yes.

11 MR. McQUEENEY: This deposition is
12 taken in the case of the Estate of Maria Perovich
13 versus Antoinette Fett, et al.

14 EXAMINATION BY MR. McQUEENEY:

15 Q. Ms. Fett, I am Patrick McQueeney. I
16 represent one of the -- well, both plaintiffs,
17 specifically Victor Gojcaj and Maria Perovich.

18 I am going to be asking you a series
19 of questions. I ask that you clearly enunciate all
20 your answers. No shaking of the head, nodding of the
21 head, shrugging of the shoulders.

22 If you answer the question, I will
23 presume you understand the question.

24 If you need the question rephrased
25 or repeated, please advice me.

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1 The deposition is taken pursuant to
2 the Federal Rules of Evidence and Federal Rules of
3 Civil Procedure.

4 If you have not already done so,
5 please state your full name for the record.

6 A. Officer Antoinette Fett.

7 Q. And I have received a set of Answers to
8 Interrogatories prior to the deposition today, as well
9 as a set of documents in support of a request for
10 documentation. Did you bring anything else with you
11 for this deposition?

12 MR. KASZUBSKI: Actually before the
13 deposition she brought in a couple of general orders
14 and procedures from Sterling Heights Police Department.

15 However, as per departmental policy,
16 and I had asked you to do this when you first came into
17 the case, agree to a protective order.

18 MR. McQUEENEY: Yeah, that's fine.

19 MR. KASZUBSKI: So as long as we are
20 in agreement with the protective order that I proposed
21 previously, I showed it to Pete this morning, he
22 appears to be okay with this, I have added his name to
23 it, then I will provide those to you.

24 MR. McQUEENEY: Okay.

25 MR. KASZUBSKI: Although I am going

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1 to provide them, because of the way the protective
2 order reads, provide them to you as confidential.

3 MR. McQUEENEY: Is that it?

4 MR. KASZUBSKI: Yes. Yes, the one
5 that she provided me was for 2010, which I provided you
6 the one that actually was in effect at the time of the
7 incident, so --

8 MR. McQUEENEY: This --

9 MR. KASZUBSKI: 6.23, she brought me
10 the 2010 version. I am giving you the one that was in
11 effect at the time of the incident.

12 MR. McQUEENEY: Okay. Very good.

13 Okay.

14 BY MR. McQUEENEY:

15 Q. Ms. Fett, do you prefer Officer Fett?

16 A. Officer Fett is fine.

17 Q. Officer Fett, other than what your attorney
18 has provided me, any other documents, recordings,
19 memoranda, or anything else that you brought to the
20 deposition with you today?

21 A. No.

22 Q. What did you do in preparation for your
23 deposition today?

24 A. I met with Attorney Marc here. And viewed
25 the videotape.

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1 Q. Okay. Did you view your police report?

2 A. Yes, I did.

3 Q. Anything other than that that you just
4 testified to to prepare yourself to testify today?

5 A. No.

6 Q. Okay. Did you talk about the case with
7 fellow officers in the Sterling Heights Police
8 Department?

9 A. No, I did not.

10 Q. Did you talk about the case with the other
11 defendants in the case, Sergeant Cattaneo?

12 A. No, I did not.

13 Q. How far did you go in school?

14 A. I completed my bachelor degree.

15 Q. And when did you complete that?

16 A. 1991.

17 Q. Any other education other than your bachelor
18 degree that you completed in 1991?

19 A. I went to the police academy afterwards.

20 Q. When did you go there?

21 A. I went there from I believe January to
22 April of '92.

23 Q. And what police academy was that, please?

24 A. That's the Macomb Police Academy.

25 Q. Okay. And after you completed the academy,

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1 any other education, degrees, certificates, or anything
2 like that?

3 A. I have gone through additional training
4 through the department.

5 Q. Through the Sterling Heights Police
6 Department?

7 A. Yes.

8 Q. Currently, you are an officer with the
9 Sterling Heights Police Department?

10 A. Yes, I am.

11 Q. And is that your rank, officer?

12 A. Yes, it is.

13 Q. How long have you been employed as an
14 officer in the Sterling Heights Police Department?

15 A. Eighteen years.

16 Q. And prior to taking that position with the
17 Sterling Heights Police Department, did you work in any
18 other law enforcement agencies?

19 A. No, I did not.

20 Q. As part of a -- the discovery that was
21 provided here, there is a complaint made against you
22 regarding an incident, do you recall that?

23 A. I recall no complaints prior to receiving
24 this complaint.

25 Q. Well, was there a civilian complaint made

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1 against you involving a woman, a suicidal woman?

2 A. That complaint I was made aware of when
3 conferring with my attorney.

4 Q. Okay. You had no --

5 A. I had no knowledge prior to that.

6 Q. Okay. So that was a complaint somebody
7 made, and your department never contacted you about it?

8 A. No.

9 Q. Any other complaints made against you other
10 than this complaint?

11 A. None that I know of.

12 Q. On October the 30th, 2007, you were working
13 with the Sterling Heights Police Department on that
14 day?

15 A. Yes, I was.

16 Q. What was your shift?

17 A. My shift was the day shift.

18 Q. I am sorry?

19 A. The day shift.

20 Q. And what are the hours for the day shift?

21 A. We start roll call at 6:45 in the morning
22 and we get off duty at 5:00 p.m.

23 Q. And how many days a week do you work?

24 A. Four days a week.

25 Q. Four days. Is that every week or is that --

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1 A. That would be every week, 10 hours a day.

2 Q. Okay. And prior to -- you said you started
3 the shift at 6:45, there was roll call?

4 A. Yes.

5 Q. And then were you assigned to patrol, road
6 patrol?

7 A. Yes, I was.

8 Q. Was that a one-person car or two-person car?

9 A. One-person car.

10 Q. And when did you start patrolling on that
11 particular day, do you recall?

12 A. That would be right after roll call.

13 Q. You are immediately assigned a vehicle?

14 A. Yes.

15 Q. Do you go -- do you enter the vehicle?

16 A. Yes.

17 Q. And you begin patrolling?

18 A. Yes.

19 Q. Is there any specific area in Sterling
20 Heights that you are limited to?

21 A. I would be assigned the what we call Adam
22 area.

23 Q. What is the Adam area?

24 A. That would be Hall Road, Van Dyke to Hayes.

25 Q. Okay. And is there anybody else in the

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1 department assigned to that area other than yourself?

2 A. There is one other area patrol car.

3 Q. And who would that be on that particular
4 day, if you recall?

5 A. I don't recall who my other area partner
6 was. There was command staff working.

7 Q. Who was the commander on that particular
8 day?

9 A. Sergeant Cattaneo.

10 Q. Okay. Was there any lieutenants in command
11 on that day, or no?

12 A. I can't recall that far back as far as other
13 command.

14 Q. So you start patrolling, and are you
15 eventually dispatched to a location on Penny Street?

16 A. Yes, I am.

17 Q. When did the dispatch come through?

18 A. It was early morning hours. I can't say
19 exact time.

20 Q. Okay. Do you recall what day of the week
21 this was?

22 A. No, I do not.

23 Q. And you are dispatched to a location. What
24 was the dispatch you received?

25 A. Dispatch advised that there was a female

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1 resident at the Penny address that wanted us to assist
2 because she was questioning whether a Clinton Township
3 detective was, in fact, indeed really a detective from
4 Clinton Township.

5 Q. Okay. So you received a dispatch that some
6 female resident on Penny was requesting a police
7 intervention because there was somebody at her door
8 that -- she didn't know whether it was a Clinton
9 Township police officer?

10 A. Yes.

11 Q. And to your knowledge, had anybody from
12 Clinton Township Police Department contacted the
13 Sterling Heights Police Department in advance of you
14 being dispatched to that location requesting assistance
15 to go to the home?

16 A. It was -- to my knowledge, it was almost a
17 simultaneous that he was also calling us out.

18 Q. Okay. He was also calling you out at the
19 same time?

20 A. Yes.

21 Q. Okay.

22 A. For assistance.

23 Q. Who would that have been?

24 A. That was Detective Melise from Clinton
25 Township.

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1 Q. Okay. Who did he call, do you recall?

2 A. It would just be the dispatch line, our main
3 line.

4 Q. Did you receive a radio transmission that
5 Detective Melise had contacted the Clinton -- or the
6 Sterling Heights Police Department?

7 A. Through the dispatch, she had advised that
8 Clinton Township was also requesting our assistance at
9 that address.

10 Q. And what was the specific address on Penny,
11 if you recall?

12 A. I do not recall the exact address.

13 Q. If I show you the incident report, would
14 that refresh your recollection?

15 A. Yes. 43153 Penny.

16 Q. And was anybody else dispatched to that
17 location to your recollection?

18 A. Yes. We always send another area unit.

19 Q. And what time did you arrive on that day, do
20 you recall?

21 A. That day, I arrived at --

22 MR. KASZUBSKI: Can she look at her
23 report? I mean, you are asking her something that
24 happened two years ago.

25 MR. McQUEENEY: She doesn't remember

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1 all the details.

2 MR. KASZUBSKI: Almost three.

3 THE WITNESS: I arrived there
4 approximately 0950 hours in the morning.

5 BY MR. McQUEENEY:

6 Q. And did you identify Detective Melise?

7 A. Did I identify him?

8 Q. Right.

9 A. I conferred with him and did advise her that
10 that was, in fact, a Clinton Township detective.

11 Q. Okay. How was Detective Melise dressed?

12 A. Casual wear. He was not in full uniform, as
13 detectives are usually dressed down.

14 Q. He is not dressed like you are here today?

15 A. No.

16 Q. And you were in a marked car?

17 A. Yes, I was.

18 Q. And you were dressed as though you are
19 today, with an issued uniform?

20 A. Yes.

21 Q. Okay. And you said you conferred with
22 Detective Melise. What did you confer with him about?

23 A. At the time, he told me that he was just
24 investigating an incident where someone had failed to
25 pay at a restaurant.

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1 Q. Did he say where the restaurant was located?

2 A. No, he did not.

3 Q. Did he say that the -- did he say the
4 incident occurred in -- this incident at a restaurant
5 occurred in Sterling Heights or in Clinton Township?

6 A. It would be in his jurisdiction for him to
7 be investigating it.

8 Q. Did he describe what he was investigating?
9 You said an incident. Did he describe the incident?

10 A. He described that basically they failed to
11 pay at a food eatery.

12 Q. Did he advise you he was seeking to arrest
13 somebody for that?

14 A. He did not advise me.

15 Q. Did he say there was an ongoing
16 investigation?

17 A. He was doing follow-up.

18 Q. What's the protocol for Sterling Heights
19 police in allowing an investigation of a crime in --
20 that's not committed in its jurisdiction, do you know?

21 MR. KASZUBSKI: Objection,
22 relevance. If you know, you --

23 THE WITNESS: I don't know his
24 policy in Clinton Township. I don't know.

25 BY MR. McQUEENEY:

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1 Q. What's Sterling Heights' policy?

2 MR. KASZUBSKI: Same objection.

3 BY MR. McQUEENEY:

4 Q. What is the policy for the Sterling Heights
5 Police Department to allow an investigation of an
6 incident not committed in the Sterling Heights
7 jurisdiction?

8 A. Not committed?

9 Q. Not committed.

10 A. We can do follow-up. If any arrest is going
11 to occur, then an officer would be standing by from
12 whatever jurisdiction they have authority in.

13 Q. Okay. So if a --

14 A. If it is a follow-up matter, it is just a
15 follow-up matter.

16 Q. Okay. If Clinton Township undertakes an
17 investigation of something that occurred outside the
18 jurisdiction of Sterling Heights, does -- Sterling
19 Heights Police Department can do a follow-up, is that
20 the policy, if you know?

21 A. I am not really understanding -- what's the
22 question?

23 MR. KASZUBSKI: Patrick, are you
24 saying if -- if there is an incident outside Clinton
25 Township, they have a resident that lives in Sterling

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1 Heights, and Clinton Township comes into Sterling
2 Heights to do a follow-up, you are asking what the
3 policy is in that regard?

4 MR. McQUEENEY: Yes. Thank you.

5 MR. KASZUBSKI: Does that help you?

6 THE WITNESS: To my knowledge, as I
7 stated before, if someone was going to make an arrest,
8 they have to call out Sterling Heights. If it's
9 Sterling Heights police -- if we are going into Clinton
10 Township to make an arrest, we have to call out Clinton
11 Township, have them stand by.

12 BY MR. McQUEENEY:

13 Q. That's Sterling Heights' police policy,
14 right?

15 A. Yes.

16 Q. Okay. So Detective Melise based upon the
17 transmissions you heard from dispatch was at this
18 address on Penny, and was he going to make an arrest?

19 A. The information I received is he is doing
20 follow-up.

21 Q. He is doing follow-up. Okay. So
22 your -- the Sterling Heights presence was not to assist
23 Detective Melise, or was it?

24 A. It was to assist him. My guess would be
25 that there was a problem that he believed that he

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1 needed our assistance for.

2 Q. Other than the description of somebody had
3 failed to pay for food at an eatery, did he say
4 anything else that he was investigating or following up
5 on to use your --

6 A. No.

7 Q. And you said there was somebody -- there
8 were other people dispatched to the location --

9 A. Yes.

10 Q. -- right?

11 And who were they?

12 A. Sergeant Cattaneo was first on the scene.

13 Q. And was anybody else present at the scene
14 other than yourself, Sergeant Cattaneo, and Detective
15 Melise?

16 A. Officer Burgess arrived as I had just
17 assisted him on a prior incident around the corner.

18 Q. So he arrived at or near the time that you
19 arrived?

20 A. Yes.

21 Q. And what was Sergeant Cattaneo doing when
22 you arrived at the location?

23 A. He was at the door with Detective Melise.

24 Q. Okay. At that address you just testified to
25 a couple minutes ago?

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1 A. Yes.

2 Q. And do you know why he was at that door?

3 A. As I stated earlier, he was conducting
4 follow-up on the fail to pay.

5 Q. So --

6 MR. KASZUBSKI: When you said "he,"
7 you were talking about --

8 THE WITNESS: I was talking about
9 Detective Melise.

10 BY MR. McQUEENEY:

11 Q. Yeah. I will break it down. I am sorry.

12 So Sergeant Cattaneo was at the door
13 with Detective Melise?

14 A. Yes.

15 Q. Okay. And you just testified that Melise
16 was conducting follow-up as you had testified a couple
17 minutes ago?

18 A. Yes.

19 Q. What was Sergeant Cattaneo doing?

20 A. He was at the door with Detective Melise,
21 and advising a female resident that this was indeed, in
22 fact, a Clinton Township detective conducting follow-up
23 on this incident.

24 Q. Okay. Was Sergeant Cattaneo assisting
25 Detective Melise at that time?

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1 MR. KASZUBSKI: Objection,
2 foundation.

3 BY MR. McQUEENEY:

4 Q. You can answer.

5 MR. KASZUBSKI: You were called out
6 by both --

7 THE WITNESS: We were called out
8 there.

9 MR. KASZUBSKI: -- Ms. Perovich as
10 well as Clinton Township --

11 THE WITNESS: We were standing by
12 for both parties.

13 BY MR. McQUEENEY:

14 Q. Okay. Was he assisting Detective Melise?

15 A. He was at the door.

16 Q. Okay. I understand that you testified to
17 that. Was he assisting Detective Melise?

18 MR. KASZUBSKI: Same objection,
19 foundation.

20 THE WITNESS: He is assisting both
21 parties. He is assisting her, air any doubts that this
22 is, in fact, a Clinton Township detective to dispel any
23 suspicion she may have. We are out there to assist him
24 to make sure everything is kept in order.

25 BY MR. McQUEENEY:

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1 Q. And based upon your testimony, Sergeant
2 Cattaneo was not doing anything to investigate an
3 incident that occurred in Sterling Heights, correct?

4 A. No. He is not the investigator.

5 Q. Okay. And why were three Sterling Heights
6 vehicles dispatched to the location?

7 A. We always have two units respond. It just
8 so happened Officer Burgess, like I stated before, was
9 out with me on a prior run, and was basically right
10 behind me -- right in front of me.

11 Q. When you arrived and you said you conferred
12 with Detective Melise, did he show you any warrant or
13 any documentation that there was an ongoing
14 investigation involving this food incident?

15 A. No. Apparently there was a plate number
16 given which led him back to the address from the
17 restaurant establishment that had obtained a plate of
18 the person failing to pay and driving off.

19 Q. Did you conduct any independent
20 investigation at that time regarding this incident that
21 occurred in Clinton Township?

22 A. I had no other knowledge about the incident
23 or the follow-up.

24 Q. And how long after you arrived were
25 Detective Melise and Sergeant Cattaneo on the front

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1 porch, the front steps?

2 A. It wasn't a long time. I would say probably
3 within a minute or so. We were a short distance around
4 the corner.

5 Q. Did either of them tell you how long they
6 had been there before you arrived?

7 A. No.

8 Q. And when they were on the -- at the front
9 door, was anybody else at the front door with them,
10 anybody inside the residence?

11 A. I could not see anyone else.

12 Q. Okay. When you arrived, did anybody
13 eventually come and open up the front door?

14 A. Mrs. Perovich came to the front door.

15 Q. How long after you had arrived did
16 Mrs. Perovich come to the front door?

17 A. Not long after.

18 Q. Minute, two minutes, seconds?

19 A. I don't think we were even out there
20 minutes. I mean, it's probably a minute or so.
21 Sergeant Cattaneo had called out just prior to me and
22 Officer Burgess arriving there.

23 Q. Okay. And when she came to the front
24 door -- are there two doors at the front door, a screen
25 door and a storm door?

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1 A. There's a screen door and a regular door,
2 yes.

3 Q. And did she open the -- eventually open the
4 regular door?

5 A. Yes.

6 Q. Okay. And was she using a cane or a walker?

7 A. I could not see at that time from where I
8 was standing on the grass.

9 Q. Did you eventually see a cane or a walker
10 when you entered the residence?

11 A. I seen a cane.

12 Q. Okay. Where did you see that?

13 A. She had been standing with it.

14 Q. When you say "she had been standing with
15 it," the cane, is that one of those four-prong canes or
16 is it just the one?

17 A. To my recollection it was just the one, but
18 it was a long time ago.

19 Q. Okay. When she was standing with it, was
20 she standing with it in her right hand or her left
21 hand?

22 A. I don't recall.

23 Q. Okay. And you said that she eventually
24 opened the regular door. There was a screen door
25 between herself and Sergeant Cattaneo and Detective

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1 Melise, right?

2 A. Yes.

3 Q. How big is that porch area where they were
4 both standing on, if you know?

5 A. It was a smaller porch area. It wasn't the
6 full width of the front house or anything of that
7 effect.

8 Q. Was it three feet, four feet?

9 A. Probably four feet.

10 Q. And where were you standing when Sergeant
11 Cattaneo and Detective Melise were at the front door,
12 where were you positioned?

13 A. I was positioned on the grass.

14 Q. And where was Officer Burgess positioned?

15 A. I believe he was on the grass next to me.

16 Q. Officer, while you are out there, did you
17 notice any cameras on the outside of the house?

18 A. No, I did not.

19 Q. Did you eventually notice them as you --
20 when you left the house at any point during that day?

21 A. Yes, I eventually noticed.

22 Q. Did you notice them as you came out of the
23 house, or when did you notice them?

24 A. I noticed it upon entry.

25 Q. Okay. And where were the -- do you know if

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1 they were video cameras, first of all?

2 A. I couldn't tell you. Only thing I could
3 tell you is that I observed -- the TV had us on when we
4 went in. I could only -- I couldn't see where the
5 cameras were located, anything aside from there was
6 full video, audio as soon as we entered.

7 Q. Okay. So you could see on the television
8 yourself. And who else did you see when you went in?

9 A. I could just tell that there were cameras
10 and video, audio.

11 Q. Okay.

12 A. I mean, it was a quick instance. It was not
13 like I stood there and watched. I --

14 Q. I want to back up for a minute. You said
15 you were on the grass, Officer Burgess was positioned
16 next to you, and Sergeant Cattaneo and Detective Melise
17 were somewhere on that small porch area, right?

18 A. Yes.

19 Q. Okay. And did Mrs. Perovich eventually open
20 the screen door?

21 A. Yes, she did.

22 Q. How long after you had arrived to the time
23 that she opened the -- how much time had elapsed to the
24 time she opened that screen door?

25 A. Probably a minute or so, I don't -- within

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1 minutes, I don't -- within a minute or so.

2 Q. Within minutes. Okay.

3 And when she opened it, how far did
4 she open the screen door? All the way, part of the
5 way?

6 A. A good part of the -- good part of the way.

7 Q. Did she open the door with her right or left
8 hand?

9 A. I couldn't tell you from where I was on the
10 grass.

11 Q. Okay. You couldn't see -- you just saw the
12 door come open --

13 A. Yes.

14 Q. -- part of the way? Okay.

15 And you couldn't see the hand?

16 A. No.

17 Q. Okay. Did she come out on to the porch?

18 A. I didn't see her on the porch. She was -- I
19 could see her hands flailing around. She had extended
20 her hands out to the porch.

21 Q. She had extended her hands or hand?

22 A. I seen one hand for sure. She was kind of
23 flailing around. She was agitated, visibly upset.

24 Q. Okay. You thought -- you said you saw a
25 hand flailing around. What do you mean by that?

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1 A. Getting --

2 Q. Was it going side to side, up and down, what
3 was going on?

4 A. Probably side to side, getting agitated.

5 Q. Okay. Was she agitated because of something
6 you did?

7 A. No.

8 Q. Was she agitated because of something
9 somebody else did?

10 MR. KASZUBSKI: Object to foundation
11 as to why she was agitated.

12 Go ahead, if you can answer.

13 THE WITNESS: I wouldn't say it's
14 something anybody did. Maybe something that was said.

15 BY MR. McQUEENEY:

16 Q. What was said?

17 A. Detective Melise was asking to speak with
18 her son.

19 Q. Okay. And who was her son, if you know?

20 A. I didn't even know who he was requesting to
21 see. I was like -- Victor, he was asking for her son.
22 Is your son Victor home?

23 Q. Did you have any knowledge of whether Victor
24 her son was home at the time that you arrived?

25 A. I had no knowledge, other than the truck was

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1 parked out front on the roadway.

2 Q. Okay. Did you run the plate to see if that
3 was registered to Victor?

4 A. I did not. Detective Melise did.

5 Q. Did Detective Melise tell you that truck
6 that was out on the roadway was registered to Victor?

7 A. Yes. And he also informed me that was the
8 same truck obtained from personnel at the restaurant
9 involved in the fail to pay.

10 Q. And you said that Ms. Perovich was becoming
11 agitated and she was waving her hand, which you don't
12 know which one, side to side, and she was becoming
13 agitated based -- was she becoming agitated based upon
14 Detective Melise asking to speak to her son, if you
15 know?

16 A. It appeared so. She said he is not home
17 right now, come back and make an appointment.

18 Q. And was that statement "come back and make
19 an appointment" -- who was that directed to?

20 A. That was directed at Detective Melise.

21 Q. Did you tell Detective Melise maybe you
22 should make an appointment to see Victor, did you
23 yourself?

24 A. No, I did not.

25 Q. Did Sergeant Cattaneo?

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1 A. No.

2 Q. How about Officer Burgess?

3 A. No.

4 Q. Was -- Victor wasn't standing at the door
5 with his mother, right?

6 A. No.

7 Q. Okay. And when she suggested to make an
8 appointment, what was your response to that statement?

9 A. I didn't have a response to that. It was
10 Detective Melise that was conducting the follow-up.

11 Q. Okay. What was Detective Melise's response,
12 do you recall?

13 A. I don't recall at the time.

14 Q. Did you want to review your report? If that
15 helps refresh your recollection.

16 A. I didn't have a response back to her when he
17 said make a report.

18 Q. Okay.

19 MR. KASZUBSKI: Did you make an
20 appointment? Is that --

21 THE WITNESS: She told him to make
22 an appointment.

23 BY MR. McQUEENEY:

24 Q. Okay. You didn't have a response. What
25 did -- did anybody else that was amongst the four of

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1 you -- did Detective Melise make a response?

2 A. I don't recall what his response was.

3 Q. Okay.

4 A. He said that he would impound the vehicle.

5 Q. Okay.

6 A. Which appeared to get her that much more
7 agitated.

8 Q. Detective Melise said he would impound the
9 vehicle because she wasn't going to get Victor to come
10 to the door?

11 A. I wouldn't know --

12 MR. KASZUBSKI: Objection,
13 foundation as to why he said that.

14 THE WITNESS: I wouldn't know his
15 reasons --

16 BY MR. McQUEENEY:

17 Q. Okay. But he was --

18 A. -- of why.

19 Q. -- he was asking to talk to Victor, correct?

20 A. Yes.

21 Q. He wasn't asking for any other information,
22 right?

23 A. No.

24 Q. Right.

25 A. He was asking to see Victor.

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1 Q. Okay. Did he advise you he knew Victor was
2 in the residence when you had that -- when you first
3 came to the home and you conferred with him as you
4 testified a few minutes ago?

5 A. No, he did not. He just knew the truck was
6 parked out front and that was the same as the plates
7 given by the restaurant.

8 Q. And when Ms. Perovich said make an
9 appointment, then is that when Detective Melise said he
10 was going to impound the vehicle?

11 A. Yes.

12 Q. And Ms. Perovich was still present, correct?

13 A. Yes.

14 Q. Was the door open at that point, the screen
15 door?

16 A. Yes.

17 Q. And that's when she became more agitated?

18 A. Yes.

19 Q. Okay. And why didn't you leave at that
20 time?

21 A. Because she had then pushed my sergeant.

22 Q. She had pushed your sergeant?

23 A. Yes. And then she stated that she was going
24 to get a gun, and from what I heard, that she was going
25 to shoot us. Followed up by profanities.

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1 Q. Okay. You said she pushed Sergeant
2 Cattaneo?

3 A. Yes.

4 Q. Okay. And was he on the porch when she
5 pushed him?

6 A. Yes.

7 Q. And did he fall off the porch?

8 A. No, he didn't fall off the porch.

9 Q. Did he stumble or did he get pushed back?
10 Did you see any reaction in response to the push?

11 A. I seen his arm get pushed.

12 Q. His arm. Which arm was pushed?

13 A. He was standing facing the door, his closest
14 arm would be his right arm.

15 Q. Okay. So it is your testimony that
16 Ms. Perovich pushed his right arm?

17 A. Yes.

18 Q. Okay. And I just want to kind of visualize
19 this, so if I seem like -- you may have to break it
20 down. You said she had a cane in one hand at the front
21 door, correct? You saw that?

22 A. I never saw it until entry. I never
23 saw -- I saw her in the doorway. I couldn't see much
24 more than that.

25 Q. Okay. But when you entered, you saw a cane

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1 in her hand, correct?

2 A. Yes.

3 Q. She didn't bend down to pick it up at any
4 time when you were present, right?

5 A. No.

6 Q. And she had another hand outside the door at
7 some point, right?

8 A. Yes.

9 Q. And you said it was moving side to side?

10 A. Yes.

11 Q. Okay. How was she propping open the door,
12 Mrs. Perovich?

13 A. I don't know. I assume with her body.

14 Q. Okay. What part of the body was she
15 propping open the door with?

16 A. I was standing on the grass, so I couldn't
17 tell you exactly what body part she was using.

18 Q. Okay. But you were looking at --

19 A. She had the door open --

20 Q. I am sorry. Go ahead.

21 A. She had the door open, I could see a hand --

22 Q. You could --

23 A. -- flailing.

24 Q. -- you see a hand?

25 A. I could see her body in the doorway, and she

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1 was visibly upset.

2 Q. Okay. And you saw her with some hand which
3 you don't know push your sergeant on the right arm,
4 right?

5 A. Yes.

6 Q. He is on the porch?

7 A. Yes.

8 Q. Okay. And you believe some part of her body
9 was propping open the door so that she was able to push
10 his right arm?

11 A. Yes.

12 Q. Okay. When she is propping open the door,
13 did you see her body come out to push Sergeant
14 Cattaneo?

15 A. I seen her hand push.

16 Q. You saw her hand?

17 A. Push him.

18 Q. And we don't know what hand that is --

19 A. I don't recall.

20 Q. -- as you just testified?

21 Okay. And you saw Sergeant
22 Cattaneo's right arm move you said?

23 A. Yes.

24 Q. Did it move backwards? Did it move to the
25 side? How did it move?

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1 A. I couldn't -- I just seen movement.

2 Q. You just saw movement?

3 A. It was --

4 Q. Does that mean you saw his arm move but you
5 didn't see the push?

6 A. I couldn't tell you if it was up or down
7 or -- I seen a push.

8 Q. You saw a push. Okay.

9 A. And the threat to that, I am going to go get
10 a gun.

11 Q. I will get to that in a minute.

12 A. Okay.

13 Q. I will get to that.

14 So you saw a push -- and when you
15 saw this push to the right arm, to Sergeant Cattaneo's
16 right arm, did Sergeant Cattaneo say, you have just
17 assaulted me? Did he say you pushed me?

18 A. I don't know any officer that says, you
19 pushed me, when someone pushes them. It is --

20 Q. I don't care about anybody.

21 A. No.

22 Q. I just care about --

23 A. He didn't say -- no, he didn't say that.

24 Q. Okay. Did our Officer Burgess call out and
25 say, I saw that Sergeant Cattaneo was assaulted?

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1 A. No, no officer stated out loud, I seen that
2 assault.

3 Q. Okay. Did Sergeant Cattaneo say that I am
4 going to arrest you for assaulting me?

5 A. He didn't state that at the time. The
6 threat of, I am going to get a gun, from what I heard,
7 I am going to go shoot you, followed -- I can't
8 remember if it is -- I believe she made the threat, she
9 pushed him, and that's a threat on our lives, so --

10 Q. Okay. All right. We will -- you are eager
11 to get to the threat, okay.

12 MR. KASZUBSKI: I wonder why.

13 BY MR. McQUEENEY:

14 Q. Let's get to the threat. Did the threat
15 precede the push or did the push precede the threat,
16 and then -- what was the order?

17 A. I believe the threat was first, but the push
18 followed -- the threat, the push, and the turn to
19 retreat to what I believe go do what she just said she
20 was going to do.

21 Q. Okay. We have got the threat, the push, and
22 then there was a retreat. And you could see the
23 retreat?

24 MR. KASZUBSKI: Object to the term
25 "retreat" as being used.

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1 MR. McQUEENEY: That's what she
2 testified.

3 MR. KASZUBSKI: No, she testified
4 she was going to go turn and get the gun. That's what
5 she said. Not a retreat. But go ahead, ask the
6 question.

7 BY MR. McQUEENEY:

8 Q. Your position is she turned and she was
9 going to go do what she threatened to do?

10 A. She said in a very believable voice, I am
11 going to get a gun, from what I heard, I am going to
12 shoot you.

13 Q. Okay. You have never met Ms. Perovich
14 before, correct?

15 A. No.

16 Q. The very first time. And in that instance
17 you had had a brief encounter for a few minutes as you
18 testified earlier, right?

19 A. Yes.

20 Q. How do you know that's a believable threat?

21 A. Anybody that says that to a police officer
22 is a credible threat.

23 Q. Okay. If somebody makes that statement, it
24 automatically becomes a threat?

25 A. Yes.

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1 Q. Okay. A threat is not a violation of the
2 law, right?

3 A. Totality of the circumstances, have a highly
4 agitated woman that just shoved my sergeant, threatened
5 to go shoot us, and then turned to what I believe go do
6 what she said she was going to do, that's highly
7 credible.

8 Q. If I threaten to shoot you right now, am I
9 violating the law? If I threaten to shoot you right
10 now, on any part of your body, am I violating the law?

11 MR. KASZUBSKI: Objection to the
12 extent it calls for a legal conclusion. However, I
13 would say yes, but that's not for me to say.

14 MR. McQUEENEY: You are not
15 testifying.

16 MR. KASZUBSKI: Sure.

17 MR. McQUEENEY: I want to know from
18 the officer.

19 THE WITNESS: I take the totality of
20 circumstances and what's going on, your demeanor, you
21 are visibly agitated, you are shaking your hands at me
22 or your hand at me, I am going to go get a gun, I am
23 going to go shoot you, you turn to go do what I believe
24 you said you are going to do. I cannot wait until I
25 see a gun in my face. It is too late.

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1 BY MR. McQUEENEY:

2 Q. We will get to that incident. I want to
3 know if I make a threat right now, I am going to shoot
4 you, Officer Fett, am I violating the law?

5 A. You are threatening a police officer.

6 Q. Is that a violation of the law? Is that a
7 violation of the law if I threaten to --

8 MR. KASZUBSKI: If you know.

9 BY MR. McQUEENEY:

10 Q. If you know.

11 A. A threat in and of itself, if I don't -- it
12 has to be a credible threat. This I believed to be a
13 credible threat, like I said, because it is coupled
14 with she is highly agitated.

15 Q. I just want an answer to my question.

16 A. Her voice is very strong, I am going to get
17 a gun, I am going to go shoot you. Turned to go do it.
18 And I believe a credible threat.

19 Q. I want an answer to my question that I just
20 asked you two minutes ago. I am going to shoot you,
21 Officer Fett, am I violating the law?

22 MR. KASZUBSKI: You already answered
23 the question.

24 MR. McQUEENEY: I don't know if she
25 has answered it or not.

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1 THE WITNESS: I believe you are
2 threatening a police officer.

3 BY MR. McQUEENEY:

4 Q. Is that a violation of the law?

5 A. A threat on my life, I would think so.

6 Q. You would think so?

7 A. Yes.

8 Q. But you are not certain?

9 MR. KASZUBSKI: Asked and answered.
10 She would think so.

11 BY MR. McQUEENEY:

12 Q. You are not certain?

13 MR. KASZUBSKI: Asked and answered.

14 BY MR. McQUEENEY:

15 Q. Go ahead.

16 MR. McQUEENEY: She can answer.

17 THE WITNESS: It is a threat on my
18 life.

19 MR. McQUEENEY: Mark this one
20 Exhibit A -- or Number 1. I am sorry.

21 DEPOSITION EXHIBIT 1

22 WAS MARKED BY THE REPORTER

23 FOR IDENTIFICATION

24 BY MR. McQUEENEY:

25 Q. You have got 1, right?

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1 A. Yes.

2 Q. You have got the incident report in front of
3 you, okay.

4 Officer Fett, you have Plaintiffs'
5 Exhibit Number 1. You also have another additional
6 copy in front of you. First of all, would you
7 acknowledge that there are seven pages to the exhibit?

8 A. Yes, I do.

9 Q. And this is the incident report dated
10 10/30/2007?

11 A. Yes, it is.

12 Q. Okay. And there is a report prepared by
13 Sergeant Cattaneo, correct?

14 A. Yes, there is.

15 Q. And his report is three pages, correct?

16 A. Yes, it is.

17 Q. Okay. And your report is immediately
18 following Sergeant Cattaneo's report, correct?

19 A. Yes, it is.

20 Q. And that contains two pages?

21 A. Yes.

22 Q. And Officer Burgess' report is a one-page
23 document following your report?

24 A. Yes.

25 Q. And the very last part of Exhibit 1 is a

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1 Sterling Heights Police Department property record,
2 right?

3 A. Yes, it is.

4 Q. And it lists one item that was on this
5 report, correct?

6 A. Yes.

7 Q. Let's turn back --

8 MR. PEACOCK: Mr. McQueeney, the
9 Cattaneo report -- the substantive report is only one
10 page; is that correct?

11 MR. McQUEENEY: I believe Cattaneo's
12 report is three pages.

13 MR. PEACOCK: Three pages, but the
14 substantive part is only Page 3, isn't it?

15 MR. McQUEENEY: I believe that's
16 correct.

17 MR. PEACOCK: Okay. Thank you.

18 BY MR. McQUEENEY:

19 Q. Let's go to your report on -- Officer Fett,
20 and that's two pages as you testified, right?

21 A. Yes.

22 Q. Okay. And I would ask that you go roughly
23 halfway down the page where -- I guess that would be
24 lines 15 through 18. Do you see that?

25 A. Okay.

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1 Q. And it suggests, I had informed Maria that
2 Detective Melise was a Clinton Township detective and
3 that he had some follow-up investigation to conduct.
4 That's your statement to Ms. Perovich, right?

5 A. Yes.

6 Q. Okay. Detective Melise then required [sic]
7 to speak to her son Victor, and Maria stated he is not
8 home, you come back and make an appointment to speak to
9 him. Is that her exact words, if you recall?

10 A. Yes.

11 Q. And you have in quotation marks, Maria then
12 became extremely hostile towards us and yelled, and
13 then there is another set of quotation marks, I'm going
14 to get a gun and I am going to shoot you. Do you see
15 that -- those sentences or those statements? Excuse
16 me.

17 MR. KASZUBSKI: The one objection I
18 have is that the quotation mark appears to be a typo,
19 there's a space, it looks like it should be at the end
20 of the word "him" with the exclamation mark. The next
21 quoted words start with "I'm," but is that --

22 BY MR. McQUEENEY:

23 Q. Do you see that statement in the quotation
24 marks?

25 A. Yes.

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1 Q. Okay. And you said, I am going to -- in
2 your report, I am going to get a gun and I am going to
3 shoot you. Now, those are in quotes, right?

4 A. Yes.

5 Q. And that's -- you put that in the report,
6 that's what she said to --

7 A. That's what I believe she said.

8 Q. That's what you believe she said?

9 A. Yes.

10 Q. The reason you put it in the quotes is
11 because that's what you believe she said?

12 A. Yes.

13 Q. Okay. And you made this report, at the very
14 bottom, it looks like 0937?

15 A. Pardon me?

16 Q. Is that when you made the report --

17 A. That would be the sergeant that reviewed the
18 report.

19 Q. Okay.

20 A. That's the officer's badge -- sergeant's
21 badge number that reviews the report.

22 Q. I don't see a badge number.

23 A. It says reviewed by 0937.

24 Q. Okay. All right. My mistake.

25 At the very top of the page, it says

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1 0935, is that the time you arrived or is that the time
2 you prepared your report? Do you see that at Line 2?

3 A. Yeah, the arrival time would have been --
4 that would have been the time the incident occurred.

5 Q. Okay. All right. So how soon after this
6 incident had ceased did you create your report? Was it
7 the same day?

8 A. That would be right after the incident.

9 Q. Right after the incident. Did you go back
10 to the department and create it or did you type it on a
11 computer?

12 A. No, we type it in our vehicles.

13 Q. Okay. And when Maria made the statement, I
14 am going to get a gun and I am going to shoot you, was
15 she directing that statement towards you?

16 A. She appeared to be directing it at all of
17 us, she followed it up with profanity, called us
18 bastards.

19 Q. Okay. Do you know if Maria was aware that
20 all -- that there were four officers at the time that
21 she made this threat?

22 MR. KASZUBSKI: Object to
23 foundation.

24 THE WITNESS: I wouldn't know.

25 MR. KASZUBSKI: Answer if you know.

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1 BY MR. McQUEENEY:

2 Q. And she said bastards. When she made that
3 statement, you were off the porch, correct?

4 A. Yes.

5 Q. Were you directly in front of the porch or
6 off to the side?

7 A. I was off to the side.

8 Q. Was that Officer Burgess' position also?

9 A. Yes.

10 Q. Off to the side?

11 A. (Nodded).

12 Q. And when she said bastards, you don't know
13 whether she was referring to you or to Detective Melise
14 and Sergeant Cattaneo or all four of you?

15 A. It appeared to be all four.

16 Q. It appeared to be all four, okay.

17 And --

18 MR. KASZUBSKI: Do you need a break,
19 Victor?

20 MR. McQUEENEY: Do you need a break?

21 MR. GOJCAJ: No.

22 DEPOSITION EXHIBIT 2

23 WAS MARKED BY THE REPORTER

24 FOR IDENTIFICATION

25 MR. PEACOCK: This is Exhibit 2?

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1 MR. McQUEENEY: Exhibit 2.

2 BY MR. McQUEENEY:

3 Q. Officer, I have handed you Plaintiffs'
4 Exhibit 2. And these are your Answers to
5 Interrogatories -- or first of all, are these your
6 Answers to Interrogatories?

7 A. Yes.

8 Q. Okay.

9 (Ms. McGrail exited room at about
10 10:46 a.m.)

11 BY MR. McQUEENEY:

12 Q. And you signed those?

13 A. Yes.

14 Q. You reviewed them before you signed them?

15 A. Yes.

16 Q. And you swore to the statements
17 contained -- the answers contained in response to the
18 questions?

19 A. Yes.

20 Q. Okay. I would ask you to turn to Page 8,
21 please. And please review the answer to question
22 number 9 to yourself, please.

23 A. Okay.

24 Q. You have read the entire answer. You would
25 admit that in your answer, there is nothing to suggest

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1 that that statement -- that Ms. Perovich stated that
2 she was going to shoot you?

3 MR. KASZUBSKI: Objection to the
4 extent that this request asked her to state that.

5 BY MR. McQUEENEY:

6 Q. Is there anything in your answer suggesting
7 that she was going to shoot anyone?

8 MR. KASZUBSKI: What did she tell
9 you?

10 THE WITNESS: She told me like she
11 did in quotations, she was going to get her gun, she
12 was going to shoot us, from what I heard.

13 BY MR. McQUEENEY:

14 Q. Is that statement in your answer to
15 number -- Question Number 9?

16 A. I have, get her gun, believed to be a
17 credible threat, she turned to do so what I believed
18 was a credible threat.

19 Q. I understand that.

20 A. To get a gun and turn and do so is a
21 credible threat.

22 Q. That's not my question.

23 A. Okay. What is your question?

24 Q. My question is: Where in your statement,
25 your answer to Number 9, Question Number 9, is the

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1 statement which is contained in Page 1 of your police
2 report, I am going to get a gun and I am going to shoot
3 you, where does it say I am going to shoot you in your
4 answer?

5 MR. KASZUBSKI: Same objection in
6 that this question didn't call for her to say exactly
7 what she stated.

8 MR. McQUEENEY: Whatever.

9 MR. KASZUBSKI: Are you asking
10 her -- explain why it wasn't there, at the full
11 statement what she said to her wasn't incorporated
12 because that question didn't ask her to say that. So
13 now you are asking her to explain that. It doesn't
14 make sense.

15 MR. McQUEENEY: No. It makes
16 perfect sense.

17 MR. KASZUBSKI: It makes no sense.

18 BY MR. McQUEENEY:

19 Q. There is nothing in there that says, I am
20 going to shoot you, correct, in that answer?

21 A. In that answer, someone says, I am going to
22 get a gun, and I am a police officer, that's a credible
23 threat on my life.

24 Q. I understand that. Just answer my question.
25 Is it in -- is the words "I am going to shoot you" in

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1 that answer?

2 MR. KASZUBSKI: Don't yell at my
3 officer.

4 MR. McQUEENEY: I am not yelling. I
5 am just trying to make a point here.

6 BY MR. McQUEENEY:

7 Q. Is there words in there "I am going to shoot
8 you" in that answer? It is a simple question.

9 A. In that answer it says, get her gun.

10 Q. That's all that's stated in there, right?

11 A. Yes.

12 Q. Okay. This answer -- let me read the
13 question into the record. Please describe what efforts
14 you made to obtain an arrest warrant and a search
15 warrant to enter Ms. Perovich's residence on
16 October 20th -- excuse me, October 30th, 2007. Do you
17 see that question?

18 A. Yes.

19 Q. And your answer is in response to that
20 question, right?

21 A. Yes.

22 Q. Okay. And you described the circumstances
23 which occurred in your presence prior to the entry of
24 the home, right?

25 A. Yes, I did.

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1 Q. Okay. But that is devoid of the statement
2 which is in your police report, I am going to shoot
3 you?

4 MR. KASZUBSKI: Objection. Look at
5 Interrogatory 15, as to the question that's actually
6 more pertinent to what she saw that night. It says --
7 go back to her police report.

8 MR. McQUEENEY: Okay. Well, let's
9 just stay with Number 9. I will get to 15 later.

10 MR. KASZUBSKI: Yeah.

11 THE WITNESS: Someone tells me they
12 are going to get a gun and they are highly agitated and
13 they turn to do so, what I believe to be a credible
14 threat, it is a credible threat.

15 BY MR. McQUEENEY:

16 Q. You have made that statement at least three
17 or four times.

18 A. Okay. And I am reiterating it.

19 Q. Okay. But the answer to this Question
20 Number 9 is different from what you have got in your
21 police report, correct?

22 MR. KASZUBSKI: Objection to the
23 fact it is not different, but --

24 MR. McQUEENEY: Your objection is
25 noted.

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1 BY MR. McQUEENEY:

2 Q. You said in your police report, Maria then
3 became extremely hostile -- grab Exhibit 1 for me,
4 please, and look at your statement.

5 A. Okay.

6 Q. Maria then became extremely hostile towards
7 us and yelled, I am going to get a gun and I am going
8 to shoot you. Those -- that's your statement
9 attributed to Ms. Perovich, right?

10 A. Yes, it is.

11 Q. Okay. And you put it in quotation marks
12 because you believe that's exactly what she said?

13 A. Yes.

14 Q. Okay. In this Answer 9 you state,
15 Ms. Perovich threatened to get her gun, and you put
16 that in quotation marks, you have got that on your
17 answer --

18 A. Yes, I see that.

19 Q. -- that's Exhibit 2, and pushed Officer
20 Cattaneo away in what appeared to be an attempt to
21 carry out that threat. Do you see that?

22 A. Yes.

23 Q. You don't have it in quotation marks that I
24 am going to shoot you?

25 MR. KASZUBSKI: Same objection.

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1 MR. McQUEENEY: Noted.

2 THE WITNESS: As I have said, if
3 someone says they are going to get a gun, they have
4 been yelling at me and screaming at me, and I believe
5 it is a credible threat, very stern voice, turns to go
6 do so, it is a credible threat to me.

7 BY MR. McQUEENEY:

8 Q. How many time have you received a --

9 A. She has already pushed the officer.

10 Q. She has already pushed the officer on the
11 porch as you have testified. Did you change your
12 answer in your Interrogatory after you reviewed the
13 videotape?

14 A. No.

15 MR. McQUEENEY: You need to take a
16 break?

17 MR. GOJCAJ: (Nodded).

18 MR. KASZUBSKI: Take a break.

19 (Off the record at about 10:53 a.m.)

20 (On the record at about 11:08 a.m.)

21 MR. McQUEENEY: Let the record
22 reflect we are going to play an audio tape that has
23 been provided to opposing --

24 MR. PEACOCK: Videotape.

25 MR. McQUEENEY: Excuse me, video and

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1 audio tape, that has been provided to opposing counsel
2 during the course of discovery and which was ultimately
3 received by my client from the Sterling Heights Police
4 Department.

5 (Video being played)

6 MR. McQUEENEY: We just took a
7 break.

8 MR. GOJCAJ: No, no, no, keep going.

9 MR. KASZUBSKI: You can have him go
10 sit out there for a while.

11 MR. GOJCAJ: I can't watch it.

12 (Mr. Gojcaj left room at 11:11 a.m.)

13 MR. KASZUBSKI: Isn't he the one
14 that put it on his own computer and DVD'd it already
15 for his own use?

16 MR. McQUEENEY: What was that?

17 MR. KASZUBSKI: In his deposition he
18 testified he put it on his own computer and DVD'd it
19 for his own use. He cut it to a DVD already.

20 MR. McQUEENEY: He may have
21 testified, I don't remember.

22 MR. KASZUBSKI: Let the record
23 reflect that Mr. Gojcaj has left the deposition.

24 MR. McQUEENEY: Let the record
25 reflect the plaintiff, Mr. Victor Gojcaj, is outside

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1 the presence of the deposition and will be outside for
2 a few minutes. Thank you.

3 (Video being played)

4 BY MR. McQUEENEY:

5 Q. Officer, is that Sergeant Cattaneo at the
6 front door?

7 A. Yes, it is.

8 Q. Is that Detective Leo Melise?

9 A. Yes, it is.

10 Q. Can you hear it okay?

11 A. Yes.

12 Q. Is there a marking on Detective Melise that
13 shows he's a police officer that you can see on the
14 video?

15 A. I can't see from here.

16 Q. At the time that you came up to the
17 residence, was there any indication in your eyes that
18 this was a detective, any badge, any markings on his
19 casual clothing that would lead you to believe he is a
20 police officer?

21 A. I can't recall. He is wearing a jacket
22 right now. Typically, they have the badges on the
23 belt. I don't know. At the time I know they were
24 already out at the scene so I don't know what had
25 happened prior to my arrival.

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1 (Video being played)

2 BY MR. McQUEENEY:

3 Q. Is that Officer Burgess walking towards
4 Detective Melise that you see on the video?

5 A. Yes, it is.

6 Q. And you haven't arrived yet?

7 A. I am -- I have not arrived yet. No,
8 actually -- actually you can't see -- I can hear
9 myself, so I am off camera.

10 Q. Is that Sergeant Cattaneo right there --

11 A. Yes.

12 Q. -- in the front -- directly in front of
13 Detective Melise?

14 A. Yes.

15 MR. KASZUBSKI: Before -- sorry, I
16 wanted to point out that Officer Fett had indicated
17 that she could hear herself on the tape, so she is
18 actually there.

19 MR. McQUEENEY: She testified to
20 that.

21 THE WITNESS: I can --

22 MR. KASZUBSKI: I didn't know if you
23 heard that.

24 MR. McQUEENEY: I heard that.

25 (Video being played)

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1 BY MR. McQUEENEY:

2 Q. Is that you on the tape that we can't see
3 but you are saying hang up and talk to us?

4 A. Yes.

5 Q. Okay. That's your voice?

6 A. Yes.

7 Q. You were the only female officer there,
8 correct?

9 A. Yes.

10 Q. Okay. And I know we have got a pause, but
11 that gentleman in front of Detective Melise is still
12 Sergeant Cattaneo?

13 A. Yes.

14 Q. And although you can't see it on the video,
15 off to the side where you said was on the grass,
16 somewhere was Officer Burgess?

17 A. Yes.

18 Q. Okay. Had anybody drawn their firearms at
19 that time?

20 A. Walking up to the residence you are asking?

21 Q. Yeah.

22 A. No.

23 Q. Okay.

24 (Video being played)

25 BY MR. McQUEENEY:

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1 Q. You had testified before the break that you
2 saw a hand. Was that the hand you saw gesturing you
3 saw in the video?

4 A. She had one hand -- yeah, she is gesturing.

5 Q. Okay. And she is not using that hand to
6 push Sergeant Cattaneo, correct, at this time?

7 A. Not up to this point.

8 (Video being played)

9 BY MR. McQUEENEY:

10 Q. You saw on the video where Ms. Perovich said
11 I am going to go get my gun and get you off my
12 premises, correct, you heard that?

13 A. In the video now I still have a problem with
14 all the background with what's said after I am going to
15 go get my gun, on the video.

16 Q. Okay. But on the video, you heard exactly
17 what she said, right?

18 A. I mean, I still think it is garbled where I
19 don't hear after, I am going to get my gun, she is kind
20 of ranting and raving, and it is hard to hear all the
21 content of --

22 Q. Okay.

23 (Video being played)

24 BY MR. McQUEENEY:

25 Q. Did you hear her -- did you hear that -- on

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1 that video, that she said, I am going to get my gun and
2 shoot anybody?

3 MR. PEACOCK: No. She said, I am
4 going to get my freaking gun.

5 MR. McQUEENEY: Whatever.

6 MR. PEACOCK: No, no, let's make
7 sure it is accurate.

8 BY MR. McQUEENEY:

9 Q. Did you hear what she said?

10 A. I heard that she said I am going to get my
11 freaking gun.

12 Q. And?

13 A. It is garbled. I still do not know what the
14 rest of it is. I am a 60-year-old milady, going crazy.

15 Q. Did you hear at any time that she is going
16 to shoot anybody in that -- what was played a couple of
17 minutes ago, she was talking to you about?

18 A. I heard that she is going to get her
19 freaking gun and she is gesturing, highly agitated.

20 Q. Right. Okay. And did you see her push
21 Sergeant Cattaneo in that video?

22 A. On the video?

23 Q. Yes.

24 A. It is not on the video.

25 Q. Well, you testified before the break that

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1 she pushed him when he was on the porch.

2 A. Yes.

3 Q. Would you agree that where Sergeant Cattaneo
4 and Detective Melise is out on the porch, right, in
5 this video?

6 A. Yes.

7 Q. Okay. Did you see her push him while he was
8 on the porch?

9 A. She had the door open. He was on the porch.
10 After she makes the threat, he goes to grab for her.
11 She is pushing. She is flailing.

12 MR. KASZUBSKI: She is still on the
13 porch right there, off camera.

14 THE WITNESS: Yeah, he is off
15 camera.

16 (Video being played)

17 BY MR. McQUEENEY:

18 Q. There is Sergeant Cattaneo?

19 A. Yes.

20 Q. You see her gesturing.

21 While this is going on, the door is
22 partially open, right?

23 A. Yes.

24 Q. Did you see Sergeant Cattaneo with his left
25 hand grab something? Was that the door?

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1 A. He goes to grab for her because she turns
2 and we believe that she is going to get a gun, so it is
3 at that -- she is flailing. She is pushing. She
4 turns. I am going to get my gun.

5 Q. Did you see her push in that video, push any
6 part of --

7 A. In the video?

8 Q. You said that -- before the break, that
9 Mrs. Perovich pushed on his right arm. Did you see in
10 that video prior to him entering the residence right
11 now --

12 MR. KASZUBSKI: Objection to the
13 extent that he was entered in the residence and still
14 on camera. He -- there is a -- this camera does not
15 show that entire porch scene.

16 MR. McQUEENEY: Yes, it does.

17 MR. KASZUBSKI: No, it does not.
18 Not even close.

19 BY MR. McQUEENEY:

20 Q. Did you see her push his right arm?

21 A. I did see a push. It is not --

22 Q. Where?

23 A. It is -- I am off to the side here, I see a
24 push.

25 Q. Did you see it in that video?

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1 A. I don't see it on video. It doesn't mean it
2 didn't happen because it is not on video.

3 Q. But we will admit for the record that it
4 wasn't -- you didn't see it on the video yet, right?

5 MR. KASZUBSKI: It is not captured
6 on that video.

7 (Video being played)

8 THE WITNESS: It is not captured on
9 that video. Nor does it happen as soon as we enter, it
10 is not captured on the video.

11 BY MR. McQUEENEY:

12 Q. So it is your position that the push
13 occurred off the video?

14 A. It didn't -- the video didn't capture the
15 video, nor does it capture what is occurring as soon as
16 we enter the premises.

17 Q. It only shows the front porch scene, right?

18 A. It shows limited front porch. You can't see
19 the entire front porch. You can't even --

20 Q. As Sergeant Cattaneo is going into the
21 residence, is that when she pushed him?

22 A. That's when she starts flailing. He is
23 trying to prevent her from -- yeah, the push -- she is
24 flailing around. She pushes him, says, I am going to
25 get the gun, retreats.

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1 Q. Okay.

2 A. It is not -- I don't see it on camera
3 because the angle of the camera is set up within the
4 home.

5 Q. Is that Officer Burgess right there?

6 A. Yes, it is.

7 (Mr. Gojcaj entered room at about
8 11:28 a.m.)

9 BY MR. McQUEENEY:

10 Q. So what's contained on the video doesn't
11 demonstrate that -- you saw a push on the right arm,
12 correct?

13 A. That's correct.

14 Q. Do you know how old Mrs. Perovich was at the
15 time that you were at the residence on
16 October the 30th, 2007?

17 A. I have no idea.

18 Q. Okay. In your estimation, was she elderly,
19 was she young, was she middle-aged?

20 MR. PEACOCK: Careful how you define
21 young.

22 MR. KASZUBSKI: How old is Pete?
23 That would be young still.

24 MR. PEACOCK: Thank you.

25 BY MR. McQUEENEY:

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1 Q. Was she in her 20s, 30s?

2 A. I would say she was in her 60s.

3 Q. Elderly, 60s?

4 MR. PEACOCK: I am not there yet.

5 BY MR. McQUEENEY:

6 Q. Was she elderly?

7 A. If you deem 60 elderly.

8 Q. Okay. How many times has a 60-year-old or
9 60-plus-year-old woman made a credible threat to you
10 with a gun?

11 A. Anybody that makes a threat is credible
12 whether they are 14 or whether they are 60.

13 There's been officers shot by 14
14 year olds. We have a training video of an officer shot
15 and killed, a State Trooper, he was about probably 70
16 or 80, with his first shot from the hip.

17 Q. Does Sterling Heights have an S.W.A.T. team?

18 A. Yes.

19 Q. Was the S.W.A.T. team --

20 A. Actually they partner up with Macomb County
21 Sheriff's. We don't have our own. Currently working
22 on that.

23 Q. Okay. On October 30th, 2007, did Sterling
24 Heights have the -- could a S.W.A.T. team have been
25 called in in this incident?

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1 A. S.W.A.T. teams -- there's no time for a
2 S.W.A.T. team. There is a credible threat to this
3 effect.

4 Q. You could have left the residence after the
5 threat, right?

6 A. My sergeant was pushed. I have a threat
7 going. I cannot run away from threats that occur. I
8 have to address a threat that's happening in front of
9 me. I have my sergeant just being pushed, a lady
10 saying, I am going to go get my freaking gun. She is
11 turning to go do what I believe she is going to go get
12 a gun and shoot us.

13 Q. A 60-year-old woman is going to turn to go
14 get a gun and shoot you and you consider that to be a
15 credible threat?

16 A. Absolutely, yes.

17 Q. And she has a cane. Do you think she was
18 going to be able to sprint back into the house and get
19 the gun and shoot you?

20 A. Yes.

21 Q. Okay. Very good.

22 Is Sergeant Cattaneo a member of
23 that S.W.A.T. team back on October the 30th, 2007, if
24 you know?

25 A. He had been a member of it. I couldn't tell

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1 you exactly on that date if he was still active.

2 Q. Okay. Based upon the threat, if you feel
3 that the threat was credible, you, Sergeant Cattaneo
4 and Officer Burgess and Detective Melise were going
5 into a known danger; is that what your testimony is?

6 A. That's what we do every day, yes. That's my
7 testimony.

8 Q. I don't care what's going on every day.

9 A. Okay.

10 Q. I care what's going on October the 30th,
11 2007.

12 A. Yes.

13 Q. So you were -- you're putting yourself in
14 harm's risk to go into a residence which you believe is
15 a credible threat?

16 A. I am going into a residence to stop a
17 credible threat. I am trying to not get killed.

18 Q. Correct. But you could have not entered the
19 residence and left, correct?

20 A. At the time she pushes my sergeant and turns
21 to go get -- there's not a whole lot of time. I could
22 get shot in the back as I am trying to retreat.

23 Q. How big is that house that you went in to?

24 A. I couldn't tell you square footage.

25 Q. Okay.

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1 A. It is a single-story brick ranch.

2 Q. Ms. Perovich was brought to the floor by
3 Sergeant Cattaneo just inside the door, right?

4 A. No.

5 Q. No. Okay.

6 How did she get to the floor?

7 A. He grabbed for her left wrist and I grabbed
8 for her right wrist while she was flailing, as I
9 indicate in my report, I believe she dropped dead
10 weight right then.

11 Q. She dropped dead weight to the floor?

12 A. That's what I have in my report. She was
13 not pushed. She was not shoved. We did nothing but
14 grab her wrist.

15 DEPOSITION EXHIBIT 3

16 WAS MARKED BY THE REPORTER

17 FOR IDENTIFICATION

18 BY MR. McQUEENEY:

19 Q. Officer Fett, I have handed you Plaintiffs'
20 Exhibit Number 3. Does this look like the inside of
21 the residence you entered into on October 30th, 2007?

22 A. Yes.

23 Q. Okay. And that is the -- is that the front
24 door you see in the left side of the picture?

25 A. Yes, it is.

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1 Q. Okay. And there is it looks like an
2 entertainment unit within a few feet of the door?

3 A. Yes.

4 Q. Okay. And there is also a table within a
5 few feet of that entertainment unit. Do you see that
6 in the bottom left-hand corner?

7 A. Yes.

8 Q. And there's a chair in the right-hand
9 corner -- bottom right-hand corner?

10 A. Yes.

11 Q. Okay. And it appears that it is a flat
12 surface, there is no depression, it looks like it is
13 all one level, right?

14 A. It appears so.

15 Q. Do you recall whether there was an up or
16 down from the door to -- into -- walking into that
17 area?

18 MR. KASZUBSKI: Can you tell?

19 THE WITNESS: From this picture?

20 BY MR. McQUEENEY:

21 Q. Yeah -- well, no, from your recollection.
22 Do you recall whether there was a landing of some sort
23 at the front door inside the house?

24 A. I thought that there might have been a step
25 up.

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1 Q. Okay. Does it look like there is a step up
2 in the picture?

3 A. The picture is kind of cut off. I can't
4 tell past the entertainment center.

5 Q. Okay.

6 A. It doesn't show the full living room.

7 Q. It doesn't show the full living room?

8 A. No.

9 Q. Could there have been a step up on the other
10 side of the living room?

11 A. Possible.

12 Q. Possible?

13 A. I can't see the full view here with this
14 picture.

15 Q. Was there any more than one door at the
16 front of the house or just this door that we see in the
17 picture?

18 A. I believe the one door.

19 Q. Was there a back door to the house, if you
20 know?

21 A. I never went through the house to look for a
22 back door.

23 Q. Okay. Did anybody take a sweep of the
24 house?

25 A. We did a general sweep of the area.

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1 Q. What area?

2 A. The living -- the immediate area right here.

3 Q. Who did the sweep, you or Sergeant Cattaneo
4 or Officer Burgess or Detective Melise or all four of
5 you?

6 A. Well, it would be all four of us looking
7 around the general -- I mean, that's your area here you
8 are dealing with. That's the area we were in right
9 there, in fact.

10 Q. Okay.

11 A. That's it.

12 Q. And did you -- you didn't find any weapons,
13 correct?

14 A. No.

15 Q. No. I am sorry, let me rephrase that. You
16 didn't find any firearms, correct?

17 A. No.

18 Q. No handguns, no shotguns, correct?

19 A. No.

20 Q. Okay. And did anybody do a sweep of the
21 house to ascertain whether or not Mrs. Perovich had a
22 gun?

23 A. We did not go room through room.

24 Q. Okay. And who seized the videotape that
25 you -- that you testified was listed on the last page

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1 of the police report?

2 A. Who seized it?

3 Q. Yes. Was it you, Officer Burgess, or
4 Sergeant Cattaneo?

5 A. I had never viewed the videotape until I met
6 with --

7 Q. No, who took it out of the house?

8 A. Who took it? Sergeant Cattaneo.

9 Q. Where did he take it from? Did he take it
10 from anywhere near that television set on that
11 entertainment unit?

12 A. Yeah. The TV was on at the time.

13 Q. Okay.

14 A. It would be a VHS at the time. It was
15 confiscated by Sergeant Cattaneo.

16 Q. Okay. Did he say why -- to you or anybody
17 present, why he was taking the VHS tape?

18 A. Well, it would be evidence of the crime
19 occurring.

20 Q. What crime?

21 A. The assault.

22 Q. The assault?

23 A. Yes.

24 Q. Okay. Evidence of the assault which there
25 is nothing on the video showing the assault occurred,

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1 right?

2 MR. KASZUBSKI: Objection. There is
3 plenty on the video showing an assault occurring,
4 threatening a police officer --

5 MR. McQUEENEY: Let her testify.

6 MR. KASZUBSKI: I'm sorry.

7 MR. McQUEENEY: Move to strike that
8 statement. Let her testify.

9 MR. KASZUBSKI: Objection,
10 mischaracterizes the testimony today and the videotape.
11 BY MR. McQUEENEY:

12 Q. You said the videotape was taken to -- as
13 evidence of the assault?

14 A. Yes.

15 Q. And as you watched the videotape, there is
16 no showing of an assault on the tape, correct?

17 A. No one knew what was on the tape. We just
18 knew that he had a camera in place, obviously taping
19 video, audio of everything that had occurred.

20 Q. Okay.

21 A. Wouldn't know at the time what angles or
22 what had been captured.

23 Q. Sure. Could the tape have also been taken
24 to protect the -- Sergeant Cattaneo or anybody else for
25 an unlawful entry into the residence?

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1 MR. KASZUBSKI: Objection, calls for
2 speculation. Come on, if that was the case, why did
3 they make a record?

4 BY MR. McQUEENEY:

5 Q. Could the tape have been seized to prevent
6 anybody finding that there was an unlawful entry into
7 the residence?

8 A. No. It would be evidence of what occurred.

9 Q. Okay. How many times did -- does
10 Mrs. Perovich push Sergeant Cattaneo? Was it once,
11 twice, more than once?

12 A. It was once, and then action was taken.

13 Q. I am sorry?

14 A. It was once and then action was taken.

15 Q. Okay.

16 DEPOSITION EXHIBIT 4

17 WAS MARKED BY THE REPORTER

18 FOR IDENTIFICATION

19 BY MR. McQUEENEY:

20 Q. Officer Fett, I have provided you with
21 Plaintiffs' Exhibit 4. First of all, would you
22 acknowledge that there is three pages to Plaintiffs'
23 Exhibit 4?

24 A. I would acknowledge that.

25 Q. Okay. And this is an item of -- police

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1 report authored by Detective Melise provided in the
2 Answers to Discovery by Detective Melise's counsel
3 and -- first of all, I would ask that you review the
4 last -- on the first page, the last four lines starting
5 with -- it says "The" and "W slash F" which I presume
6 would be white female. Do you see that?

7 A. Yes, I do.

8 Q. Okay. Read that to yourself, please.

9 A. Okay.

10 Q. Do you see that -- and this is I believe
11 Detective Melise's incident report.

12 A. Okay.

13 Q. And it says that a white female then said if
14 we didn't get off her property, she would get a gun and
15 shoot us and she closed the storm door. Do you see
16 that?

17 A. Okay.

18 Q. Okay. And then it says Sergeant Cattaneo
19 opened the screen door to speak with the lady and she
20 pushed the sergeant in the chest. Do you see that?

21 A. Okay.

22 Q. And then it goes on, he told her several
23 times to calm down and she pushed him again.

24 A. Okay.

25 Q. Okay. And continuing on to the next page,

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1 the sergeant tried to grab her hand and she fell on her
2 side into the living room due to the step up from the
3 landing into the living room. Do you see that?

4 A. Yes.

5 Q. Okay. First of all, back to Exhibit 3,
6 there is no step up from the landing that's in that
7 picture, correct?

8 A. As I have indicated, it is not a very good
9 picture, and I can't tell whether there is a step up or
10 step down. It is a limited -- just a portion of the
11 living room.

12 Q. Okay.

13 A. I am not seeing the whole living room or --
14 you get a bigger shot.

15 Q. That's the front door.

16 A. I don't know.

17 I see the front door.

18 Q. Okay. And do you see a landing near the
19 front door?

20 A. Like I said, from this, it appears flat, but
21 I don't see the rest of the living room area to be able
22 to discern that.

23 Q. Okay. All right. It suggests -- Detective
24 Melise has suggested that Ms. Perovich closed the storm
25 door and then Sergeant Cattaneo opened the door to

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1 speak with the lady, correct?

2 MR. PEACOCK: Object to the term

3 "suggested." The report states what it says.

4 Interpretation by plaintiffs' counsel.

5 THE WITNESS: I can't --

6 BY MR. McQUEENEY:

7 Q. I will rephrase the question. The statement
8 clearly states that she would get a gun and shoot us
9 and she closed the storm door. Do you see that
10 statement?

11 A. That's what he has written.

12 Q. Okay. Do you have any reason to dispute
13 that statement?

14 A. That's what he perceived happened.

15 Q. Okay. But do you -- what do you have in
16 your testimony to dispute that that occurred?

17 A. I can't dispute anything anybody says
18 occurred. I only have my own view of where I am
19 standing and what happened.

20 Q. Okay. So she never closed the storm door;
21 is that what your testimony is?

22 A. I don't recall her closing the storm door.

23 Q. Okay. So Detective Melise is mistaken?

24 MR. PEACOCK: Place an objection.

25 THE WITNESS: That's his perception.

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1 He is standing in an area different from where I am
2 standing.

3 BY MR. McQUEENEY:

4 Q. You saw him on that video, correct?

5 A. Yes.

6 Q. Standing outside, Sergeant Cattaneo, right?

7 A. Yes.

8 Q. Okay. And he has a vantage point directly
9 looking at the door, would you agree?

10 MR. KASZUBSKI: Objection.

11 THE WITNESS: I don't know what his
12 vantage point is. I don't know if Sergeant Cattaneo is
13 in front of him, on the side. I can't tell you what
14 his vantage point is and what he sees.

15 BY MR. McQUEENEY:

16 Q. Okay. But he is directly in front of the
17 door, right, other than Sergeant Cattaneo?

18 A. Sergeant Cattaneo is directly in front of
19 the door.

20 Q. But he is behind Sergeant Cattaneo. He is
21 not off to the side with you and Burgess, correct?

22 A. He would be on the opposite side from where
23 me and Burgess are. And me and Burgess are farther.

24 Q. And Detective Melise says Sergeant Cattaneo
25 opened the screen door to speak with the lady and she

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1 pushed the sergeant in the chest. Do you see that in
2 his statement?

3 A. I see that in his statement.

4 Q. Okay. So after the door is closed, then
5 Sergeant Cattaneo then tries to enter the residence,
6 opens the screen door?

7 A. Well, you are asking me to testify off of
8 his report. From -- I can't do that. I can only
9 testify as to what I saw and what I did. I can't
10 testify off his report of what we did.

11 MR. KASZUBSKI: My client has got a
12 right --

13 THE WITNESS: I can only testify
14 what I did, what I saw.

15 BY MR. McQUEENEY:

16 Q. Is his report erroneous?

17 MR. PEACOCK: Objection.

18 THE WITNESS: No, that's what he
19 saw. That's what he saw. He is not erroneous. That's
20 his perception from where he is standing.

21 My perception from where I am
22 standing, I have my own report.

23 BY MR. McQUEENEY:

24 Q. So you didn't see the door close but he
25 could have, correct?

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1 A. He could have? Who do you mean "he could
2 have"?

3 MR. PEACOCK: Place an objection,
4 speculation of this witness as to what Melise could
5 have seen.

6 MR. McQUEENEY: We are talking about
7 Detective Melise.

8 MR. KASZUBSKI: I have an objection
9 to make. You are asking her to testify what it is that
10 Mr. Melise -- or Officer -- Detective Melise stated,
11 put into this report, and why he put it in the report
12 and from what vantage point. And now you are asking
13 her to speculate what it is he actually saw. So it is
14 an unfair question, Patrick, I mean, really.

15 MR. McQUEENEY: You made your
16 objection.

17 THE WITNESS: I can't testify off
18 what he saw. I -- honestly I say I can only testify to
19 my report, what I saw, and how I reacted.

20 BY MR. McQUEENEY:

21 Q. Okay. So your testimony is you didn't see
22 that storm door close?

23 A. No.

24 Q. Okay. And you didn't see Sergeant Cattaneo
25 open the screen door?

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1 A. No.

2 Q. Based upon what you saw in the video, did
3 you see him partially push the door open?

4 A. I seen her with hands gesturing and I --
5 then the push, and then you see us follow in one by
6 one.

7 Q. Okay.

8 MR. PEACOCK: Mr. McQueeney, are you
9 going to mark that video as an exhibit?

10 MR. McQUEENEY: No. We are going to
11 take care of that at the end of the deposition.

12 MR. PEACOCK: Okay.

13 BY MR. McQUEENEY:

14 Q. Officer, why -- did anybody allow Detective
15 Melise to go into the residence?

16 A. What do you mean, did we allow? The way the
17 house is set up, myself -- Sergeant Cattaneo was first,
18 if you watch the video, to enter, followed by me.

19 Q. Followed by Detective Melise?

20 A. No, followed by Officer Burgess behind me.

21 (Video being played)

22 THE WITNESS: Detective Melise never
23 entered the home.

24 BY MR. McQUEENEY:

25 Q. Never entered the home?

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1 A. No.

2 Q. Okay.

3 (Video being played)

4 BY MR. McQUEENEY:

5 Q. Is that Melise behind you -- was that Melise
6 behind you before Sergeant -- or Officer Burgess?

7 Excuse me.

8 A. He is off to my side. Sergeant Burgess is
9 right behind me.

10 Q. I guess I am not seeing the same video.

11 MR. KASZUBSKI: No. You are not
12 seeing the full picture.

13 THE WITNESS: You are not seeing the
14 full picture.

15 BY MR. McQUEENEY:

16 Q. Detective Melise never entered the dwelling?

17 MR. PEACOCK: Mr. McQueeney, I want
18 to state for the record that this video is not a
19 complete video of the front area. It is a very limited
20 view. So when you are saying things aren't in the
21 video, from the limited view, you are correct. But it
22 is not a complete view of the front porch. I want to
23 make sure the record is clear on that.

24 MR. McQUEENEY: You don't know that.

25 MR. PEACOCK: I can tell --

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1 MR. McQUEENEY: I object to you
2 making statements to that effect.

3 THE WITNESS: We do because none of
4 it is captured when we enter, it happens all right
5 within this foyer area.

6 BY MR. McQUEENEY:

7 Q. It is all -- it only captures what is on the
8 porch --

9 A. And that -- none of that is captured.

10 Q. -- and you testified that the porch is about
11 four feet wide?

12 A. Yes.

13 Q. Okay. So that captures what's going on
14 outside the home to the -- confined to the porch?

15 A. To a limited area. You never even knew I
16 was there until I heard my own voice. It is not
17 capturing who is off to the side.

18 Q. It is not a wide-angle camera, but --

19 A. So it is a limited view.

20 MR. KASZUBSKI: I'm not going to
21 fight about this. The objection has been made.

22 THE WITNESS: It is a limited view.

23 MR. KASZUBSKI: My client is telling
24 you it is a limited view. You can take whatever
25 position you want, Patrick, but let's move on from

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1 this.

2 MR. McQUEENEY: Yeah, it is

3 ridiculous.

4 MR. KASZUBSKI: Yes, you are.

5 MR. PEACOCK: I am hungry.

6 MR. McQUEENEY: I move to strike.

7 MR. PEACOCK: I'm hungry. I don't

8 want to strike that.

9 BY MR. McQUEENEY:

10 Q. So it is your testimony that Melise never
11 entered the dwelling?

12 A. It is my testimony that when this incident
13 occurred, Sergeant Cattaneo was the first to enter,
14 followed by me, followed by Officer Burgess. There was
15 not enough room right here in this area, because
16 Officer Burgess is up and over my shoulder here. There
17 is no room for anyone else at this point to enter.
18 Melise is still on the porch in the corner. You do not
19 get that view.

20 After the whole incident, he may
21 have entered the house to speak to Victor and walk back
22 out and take him back outside which is I believe what
23 happened, he took him back outside.

24 Q. Okay.

25 A. And spoke with him on a conversation that I

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1 wasn't present for, because I was still inside.

2 Q. You testified a few minutes ago that
3 Ms. Perovich dropped dead weight on to the floor?

4 A. That's what I believe happened.

5 Q. How far into the living room of the
6 residence did she get into where she dropped dead
7 weight on to the floor according to your statement?

8 A. Not very far. A few feet, because she was
9 what looked like heading towards the hallway --

10 Q. Okay.

11 A. -- or heading past the entertainment center
12 in the direction of the hallway. I don't know --

13 Q. Did she --

14 A. -- what was there.

15 Q. Did she still have her cane when she was --
16 turned around, was heading into the hallway?

17 A. I don't recall if she -- she --

18 Q. Did you see it at the -- on the floor near
19 the door when you came into the -- because you said you
20 saw it after she was at the door?

21 A. Yeah, I could see -- I didn't say I saw one
22 at the door, not until after entry. It is a very small
23 area in the door.

24 Q. Right.

25 A. I was off to the side.

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1 Q. Okay.

2 A. So I couldn't immediately see her with a
3 cane.

4 Q. Okay. But you saw her as you were entering
5 the residence with the cane?

6 A. Yes.

7 Q. Okay. And when she turned and was -- turned
8 around and you said walking in the hallway, did she
9 still have her cane?

10 A. Was she -- it wasn't to the hallway area
11 that she got.

12 Q. Okay.

13 A. So I mean basically we were all contained
14 within this small foyer area here.

15 Q. Okay. Looking at Plaintiffs' Exhibit 3,
16 would you acknowledge is the -- depicts a part of the
17 living room, not the entire living room?

18 A. A part.

19 Q. Where in connection with the entertainment
20 center did she drop dead weight on to the floor?

21 A. She would have been right within this foyer
22 area.

23 Q. Closer to the door or closer to the
24 entertainment unit?

25 A. Closer to the door.

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1 Q. Okay. And when she fell, dropped dead
2 weight, did she fall face first or did she land on her
3 back or on her side? How did she fall?

4 A. She landed on her left arm as I indicated in
5 my report.

6 Q. Okay. And if Sergeant Cattaneo states in
7 his report that she threw herself to the floor; is that
8 an accurate statement?

9 A. That would be his perception.

10 Q. Okay. And at that point, when she drops
11 dead weight to the floor, where were you?

12 A. I would be on her right side. Sergeant
13 Cattaneo would be -- actually, if she fell this way on
14 her left arm, he is closer to the wall over here. And
15 there is -- which this doesn't show, there is a couch
16 over here, so I am closer to the couch and Officer
17 Burgess is standing up and over behind me.

18 Q. Behind you?

19 A. Behind me.

20 MR. KASZUBSKI: So the record is
21 clear, you are indicating there is a couch off to the
22 left of the picture?

23 THE WITNESS: Yes.

24 MR. KASZUBSKI: You are not talking
25 about these chairs over here?

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1 THE WITNESS: No.

2 BY MR. McQUEENEY:

3 Q. All right. And did you have your knee on --
4 at some point, did you put your knee on Ms. Perovich's
5 head?

6 A. No.

7 Q. No?

8 A. No.

9 Q. Did Sergeant Cattaneo at some point put his
10 knee in -- on Ms. Perovich's back?

11 A. No.

12 Q. No. Okay. So if Mr. Gojcaj had testified
13 that happened, that is an inaccurate statement?

14 A. That would be a lie.

15 Q. That would be a lie?

16 A. Yes.

17 Q. Did you and Sergeant Cattaneo attempt to
18 handcuff Mrs. Perovich?

19 A. Sergeant Cattaneo would be on this side
20 here, so he had hold of what would be her right arm. I
21 got one cuff on her right arm. She was laying on her
22 left.

23 Q. Okay. Let me stop you there so we can make
24 a record of this. Sergeant Cattaneo would be to the
25 right of Ms. Perovich and she is lying on her left arm?

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1 A. He is towards the wall right here.

2 Q. Correct. Okay. And is her head facing away
3 from the door?

4 A. It would be closest to the door.

5 Q. Her head is closest to the door?

6 A. Yes.

7 Q. Okay. When -- where are you when the
8 sergeant is on the side of -- near a couch you can't
9 see in the picture?

10 A. He is by the wall side. I am right here by
11 the couch side.

12 Q. Okay.

13 A. We are crouched down. Officer Burgess is
14 now standing up and over behind me.

15 Q. Okay. And he pulls a taser gun when
16 Mr. Gojcaj comes around -- comes out in the living
17 room, right?

18 A. Yes.

19 Q. And Mr. Gojcaj didn't ask what's going on
20 with his mother?

21 A. I believe he said, are you okay, Mom?

22 Q. Okay. And you said Ms. Gojcaj is on her
23 left side and you are trying to handcuff her right
24 arm --

25 A. Yes.

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1 Q. -- her right hand -- I am sorry, right
2 wrist?

3 A. Yes.

4 Q. And what is Sergeant Cattaneo doing?

5 A. He is just holding her, her right wrist.

6 Q. So you are both holding her right wrist
7 trying to handcuff her?

8 A. Well, he is holding it while I'm placing a
9 cuff on.

10 Q. Okay.

11 A. She is still flailing around and -- you
12 know, with that one arm, and he is holding it so I can
13 get a cuff on it.

14 Q. And she is screaming, correct?

15 A. She only began to scream after I got the one
16 cuff on.

17 Q. Well, don't you hear her screaming as soon
18 as the --

19 A. Well, she is screaming the whole time,
20 flailing around.

21 Q. Okay.

22 A. And then she only screams, my back, after I
23 get one handcuff on her.

24 Q. She screams her back, so --

25 A. So I uncuff her.

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1 Q. She complained of an injury to her back?

2 A. She told me that she had prior back

3 surgery --

4 Q. Okay.

5 A. -- after the fact.

6 Q. And who called the Sterling Heights

7 ambulance, the EMS?

8 A. I believe that was Sergeant Cattaneo.

9 Q. Sergeant Cattaneo, okay.

10 And what were you doing? Did you

11 help Ms. -- you said you took the handcuffs off

12 Ms. Perovich?

13 A. Well, I only had one on, and we -- I kept

14 telling her to relax, relax in the video, you can hear

15 that. She finally calmed down. I said I am not going

16 to cuff her. I uncuffed her right hand. We got her up

17 off the floor into the chair. We had Victor in sight,

18 so the threat and the situation had been calmed down.

19 Medical personnel was called, because she was so worked

20 up and agitated, breathing heavily.

21 DEPOSITION EXHIBIT 5

22 WAS MARKED BY THE REPORTER

23 FOR IDENTIFICATION

24 BY MR. McQUEENEY:

25 Q. Officer, I am handing you Plaintiffs'

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1 Exhibit 5.

2 MR. PEACOCK: Eight pages.

3 BY MR. McQUEENEY:

4 Q. First of all, would you acknowledge it is a
5 series of eight pages of photographs?

6 A. Yes.

7 Q. I would ask you to turn to Page -- the
8 second page. Do you see that?

9 A. Okay.

10 Q. And is that Mrs. Perovich?

11 A. Yes.

12 Q. Okay. And turn back to the first page.
13 Obviously, the entire head is not in the picture, but
14 is that Mrs. Perovich, to your vantage point?

15 A. Yes.

16 Q. Okay. Page 3, is that Mrs. Perovich?

17 A. Yes.

18 Q. Page 4, you don't see a head or a face
19 associated with the picture, right?

20 A. That's correct.

21 Q. Same with Page 5?

22 A. Correct.

23 Q. Same with Page 6?

24 A. Correct.

25 Q. Same thing with Pages 7 and 8, right?

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1 A. Correct.

2 Q. Okay. Turning to Page 1, and you have
3 identified that appears to be Ms. Perovich. It looks
4 like an arm is being held up; would you agree with
5 that?

6 A. I see that.

7 Q. Okay. Did Ms. Perovich complain to you
8 other than her back that she had injuries to her arm?

9 A. No.

10 Q. On Page 2, do you see the bruising on her
11 arm?

12 A. I see bruising.

13 Q. And that -- that's while she is holding her
14 arm up, correct?

15 A. Yes.

16 Q. Okay. Did you see any bruising on her arm
17 at the time that you were -- you and Sergeant Cattaneo
18 were trying to handcuff her?

19 A. I didn't have time to look for bruises while
20 we were handcuffing her.

21 Q. Okay. Did you look for bruises after you
22 took the handcuffs off -- or handcuff off her right
23 wrist?

24 A. No, that would be the fire department that
25 came in and did their assessment.

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1 Q. In Page 2, she -- Ms. Perovich is holding up
2 her right arm, correct?

3 A. Yes.

4 Q. Okay. And that's the arm that you and
5 Sergeant Cattaneo claim you were trying to get the
6 handcuff on and maybe you got it all the way on, right?

7 A. Yes.

8 Q. Okay. And turn to Page 3, Officer. And
9 again, you said this is Mrs. Perovich, correct?

10 A. Yes.

11 Q. And do you see some swelling around her
12 right wrist?

13 A. The picture --

14 MR. PEACOCK: I'm going to place an
15 objection -- whoa, whoa, I'm going to place an
16 objection in terms of swelling. I mean --

17 MR. KASZUBSKI: Same objection.

18 BY MR. McQUEENEY:

19 Q. Do you see any swelling around her right
20 wrist?

21 A. I see swelling. She was a very large woman,
22 and she had swelling all over the place, she had large
23 extremities, legs were swollen. I mean, she --

24 Q. So you don't know whether that's swelling or
25 that's just her fatty tissue, right?

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1 A. Yes. Her legs appeared to be swollen, I
2 am -- she is a bigger structured woman.

3 Q. Okay. And do you see Page 4, it says, right
4 arm?

5 A. Yes.

6 Q. Okay. Do you see a large bruise it looks
7 like?

8 MR. PEACOCK: I'm going to place an
9 objection to the term "large."

10 MR. McQUEENEY: Whatever.

11 BY MR. McQUEENEY:

12 Q. Do you see a large bruise on the arm?

13 A. I see a smaller bruise. I don't see a large
14 bruise.

15 Q. Okay. That's a smaller bruise. Bigger than
16 a dime?

17 A. Possibly.

18 Q. Bigger than a quarter possibly?

19 A. Doesn't look larger than a quarter.

20 Q. Turn to Page 5. Do you see a picture of a
21 left hand?

22 A. Yes.

23 Q. Can you see bruising on the left hand?

24 A. I see discoloration.

25 Q. Okay. Could that have been a bruise, if you

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1 know?

2 A. Possibly.

3 Q. Back to the right arm -- back to Page 6, is
4 that the right -- it says right arm again, correct?

5 A. It says right arm. I can't --

6 Q. You don't know whether it is right arm, left
7 arm, or leg?

8 A. I can't tell.

9 Q. And there is a large bruise?

10 MR. PEACOCK: Again, I will object
11 to the term "large."

12 THE WITNESS: There is a smaller
13 bruise I see.

14 BY MR. McQUEENEY:

15 Q. There is a smaller bruise.

16 And the right arm on Page 7 is --
17 did you see some discolorization, possibly bruising?

18 A. I see some small areas with possible
19 bruising.

20 MR. McQUEENEY: I want to take just
21 a very brief break.

22 MR. KASZUBSKI: That's fine. I'll
23 get a menu for us anyway.

24 (Off the record at about 12:07 p.m.)

25 (On the record at about 12:15 p.m.)

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1 BY MR. McQUEENEY:

2 Q. Officer, turn to the last page of that last
3 Exhibit 5. It shows -- I will admit that the -- there
4 is -- it is not that clear, but it says low back. You
5 had testified that Ms. Perovich complained of back
6 problems or something like that?

7 A. Prior back problems.

8 Q. Prior back problems. Did she say her back
9 was bothering her during this incident?

10 A. I would just say for the momentary time that
11 she had her right hand -- that I was trying to cuff it,
12 and after I had taken the cuff off, she had no other
13 complaints of back pain.

14 Q. Okay. Did she complain of any other
15 injuries? Did she complain that she was having heart
16 palpitations?

17 A. I recall that she was breathing heavily due
18 to her agitated state, obviously the whole incident,
19 she was breathing a little heavy and that's why we had
20 called for medical.

21 Q. Okay. You obviously were real close to her.
22 Did you see her perspiring?

23 A. I don't recall at the time. She was
24 breathing heavily. She was just calming down from
25 being agitated for quite some time, yelling, screaming,

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1 flailing, so I imagine she had to be perspiring
2 somewhat.

3 Q. But you don't recall?

4 A. I don't recall.

5 Q. What was Victor doing when you were in the
6 house with Sergeant Cattaneo and Officer Burgess? What
7 was he doing?

8 A. I just remember him running around the
9 corner from the hallway over to us, asking, Mom, are
10 you okay? Obviously we don't know, you know, why he is
11 running towards us, so that's why Officer Burgess tells
12 him to stop running and stand where he is at.

13 Q. Okay. He didn't do anything other than run
14 out to check on his mother and then he stopped when
15 Officer Burgess told him to stop?

16 A. He was just running around the corner
17 towards us. We didn't know what his intent was or what
18 was going to happen next.

19 Q. And how long from the time that you,
20 Sergeant Cattaneo, and Officer Burgess entered the
21 residence, how long were you in there until
22 Ms. Perovich was taken out of the residence by Sterling
23 Heights EMT?

24 A. We were not in there very long. As soon as
25 the -- minutes, I mean within five responding.

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1 Obviously, they have a whole crew which comes in the
2 front room. It is very hard to have all the personnel
3 in there. They have probably got, you know, four or
4 five people on each rig, then you have Universal
5 responding that have two more attendants, so --

6 Q. Okay. But in terms of minutes, was it five
7 minutes, 10 minutes, a half an hour?

8 A. Five to 10 minutes.

9 Q. Five to 10 minutes, okay.

10 And other than what you described in
11 terms of attempting to handcuff Ms. Perovich, what else
12 did you do while you were present in the residence?
13 You said you conducted -- you assisted in the sweep of
14 that room, which is in Exhibit 4. What part of the
15 room did you do the sweep in?

16 A. It would just be our immediate area.

17 Q. Okay. Did you turn -- did you lift cushions
18 off the couch, see if there was a gun in there?

19 A. I don't recall exactly. She was sitting on
20 one of the couches, and -- that we had gotten her up
21 to.

22 Q. After --

23 A. Anything around his immediate area would
24 have looked for, looked at, he, like I said, came
25 running around the hallway, didn't know what the intent

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1 was there.

2 Q. Okay.

3 A. So just that immediate area.

4 Q. So you basically did a -- you looked around.
5 You didn't move items, correct?

6 A. We didn't move furniture. We didn't -- no.

7 Q. Okay. Other than the VHS tape which was
8 removed, was anything else removed from the premises?

9 A. Not to my knowledge.

10 Q. You said Sergeant Cattaneo called the
11 ambulance. Was this when Ms. Perovich was on the floor
12 or when she had been up on the couch?

13 A. We had quickly moved her -- she had -- like
14 I said, had one arm cupped, the right arm, that was
15 only momentarily. We decided we were going to get her
16 up on the couch at that time to seek a warrant for our
17 charges, and have her be transported to the hospital.

18 Q. And you decided that she wasn't going to be
19 arrested on that particular day. Who made that
20 decision?

21 A. I don't recall exactly. It was a collective
22 decision that she was, you know, panting or breathing
23 heavily. We had the situation under control.

24 Q. Did you fear that she would suffer any
25 further -- did you fear that she would suffer perhaps a

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1 seizure or a heart attack if you continued to arrest
2 her?

3 A. Anything is possible.

4 Q. Well, did you personally fear that she could
5 suffer a seizure or a heart attack based on what went
6 on that morning?

7 A. Well, I just observed her breathing heavily
8 from her agitated, visibly angry state, so I believe it
9 was in the best interest that she just have medical
10 personnel respond and seek a warrant at a later date.

11 Q. Did you tell that to Sergeant Cattaneo, that
12 you thought it would be best that she would be arrested
13 on a later date?

14 A. That was our understanding, that was our
15 understanding when I uncuffed her, that the situation
16 was under control, that it now would be more medical
17 mode and that, yes.

18 Q. Okay. Did -- when did -- when was
19 Mrs. Perovich arrested? Was it later that week or at
20 some point thereafter?

21 A. I couldn't tell you. We then turn it over
22 to detective bureau who then goes to the prosecutor,
23 who would then authorize a warrant.

24 Q. Okay. And did you have any further
25 connection with this case after it had been turned over

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1 to the detective bureau in the Wayne County
2 Prosecutor's Office?

3 A. No, I did not.

4 Q. Did you ever --

5 MR. KASZUBSKI: Wayne County?

6 THE WITNESS: Macomb County.

7 BY MR. McQUEENEY:

8 Q. I am sorry, Macomb County.

9 Did --

10 A. I saw them at one court appearance in
11 district court afterwards.

12 Q. Were you -- did you receive a subpoena to
13 testify at a preliminary examination?

14 A. Yes.

15 Q. Did you testify?

16 A. No, I never testified. I never had any -- I
17 never had that go to exam.

18 Q. Just a few questions about -- I want to back
19 up for a minute. You said that Mrs. Perovich was
20 flailing her arms. Is this what you used as
21 justification for suggesting she be charged with
22 resisting and obstructing arrest?

23 A. No, that would be the pushing of Sergeant
24 Cattaneo would have been.

25 Q. And that was the basis for the resisting

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1 arrest?

2 MR. KASZUBSKI: Object to

3 foundation.

4 BY MR. McQUEENEY:

5 Q. Is that the pushing, is that the basis of
6 the resisting arrest charge?

7 A. Well, obstructing -- it is pretty much
8 obstructing, interfering. We know now Victor was home,
9 that she had lied to us the whole time. She had pushed
10 the sergeant. She had threatened our lives.

11 Q. Were you aware -- you didn't know that
12 Ms. Perovich had any knowledge that Victor was being
13 investigated for a criminal act, correct?

14 A. What was the question?

15 Q. I am sorry. You had no independent
16 knowledge that Mrs. Perovich was aware that Victor was
17 being investigated for a crime, correct?

18 A. I don't know what was said before I showed
19 up, with Sergeant Cattaneo, and I don't know what they
20 had said to her prior to my arrival.

21 Q. But your personal observation, you didn't
22 have any knowledge that her -- that his mother was
23 aware that he was being investigated for a crime,
24 correct?

25 A. I only know what Detective Melise had

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1 informed her of on the porch, that he is --

2 Q. That he wanted to talk to her?

3 A. That he is looking for Victor to talk to
4 him.

5 Q. To talk to him. He didn't advise while he
6 was on the porch what the purpose to talk to Victor was
7 for, correct?

8 A. I don't recall if he told her. I just
9 remember him asking for Victor.

10 Q. Okay. And she said make an appointment?

11 A. Make an appointment.

12 Q. And did he advise her that -- this is
13 Detective Melise, did he advise her that he was
14 investigating this failure to pay for food or
15 something?

16 MR. KASZUBSKI: While she was
17 present, right?

18 BY MR. McQUEENEY:

19 Q. While she was present.

20 A. While I was present, I -- I don't recall. I
21 really don't.

22 Q. Mrs. Perovich or Victor did not invite you
23 or any of the officers into the premises, correct? She
24 didn't invite you into the house?

25 A. Victor?

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1 Q. Victor and/or Mrs. Perovich did not invite
2 you into the premises, correct?

3 A. No.

4 Q. And there was no warrant, correct?

5 A. Correct.

6 Q. What is the protocol that the Sterling
7 Heights Police Department employs when arresting an
8 elderly woman who is hysterical?

9 MR. KASZUBSKI: Objection to
10 relevance.

11 THE WITNESS: You mean someone that
12 has made an assault on a police officer and a threat on
13 our life?

14 BY MR. McQUEENEY:

15 Q. That's not my question. What is the
16 protocol to --

17 A. That would be the same situation as what we
18 had.

19 Q. Answer my question, and then -- what is the
20 protocol as to arresting an elderly woman who is
21 hysterical? Is there a particular protocol?

22 A. Same as any protocol, any other individual.

23 Q. Okay. What is that protocol?

24 A. Being arrested for the same? Are you
25 talking another scenario?

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1 Q. Well, let's use this scenario, what happened
2 on October the 30th, what is the protocol?

3 A. Same as what happened here.

4 Q. Okay. Enter the residence without a
5 warrant, right?

6 A. When someone says they are going to get a
7 gun, that's exigent circumstances.

8 Q. What were the exigent circumstances?

9 A. Somebody saying they are going to get a gun
10 and what I perceived I am going to shoot you, that's
11 pretty exigent.

12 Q. But as you determined, there was no gun?

13 A. After the fact?

14 Q. Yeah.

15 A. After the fact?

16 Q. And she didn't --

17 A. I don't know that after the fact.

18 Q. And she didn't even get into the house --

19 A. I don't know that after the fact.

20 MR. KASZUBSKI: Don't fight with
21 him.

22 THE WITNESS: I just --

23 MR. KASZUBSKI: The law is clear on
24 what an exigent circumstance is, so that's fine. Don't
25 fight with him.

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1 BY MR. McQUEENEY:

2 Q. What is your authority to remove the VHS
3 tape in this instance?

4 A. I didn't remove it.

5 Q. Okay. What is the authority for Sergeant
6 Cattaneo to remove the VHS tape?

7 A. You have to ask him, it is his evidence.

8 Q. Okay. Why didn't all four of you leave when
9 the mother didn't want you to talk to her son?

10 A. We would have had she not pushed Sergeant
11 Cattaneo and stated that she was going to get a gun and
12 shoot us and turned to go -- believe what I was -- what
13 I would believe was a credible threat and carry it out.

14 MR. McQUEENEY: Okay. Let's take a
15 break.

16 (Off the record at about 12:31 p.m.)

17 (On the record at about 12:41 p.m.)

18 BY MR. McQUEENEY:

19 Q. I don't know if I have covered this at the
20 beginning, just two quick areas. Have you ever been
21 sued civilly?

22 A. No.

23 Q. And I don't mean just in your capacity as a
24 police officer.

25 A. No.

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1 Q. I want to follow-up what we talked about
2 very briefly before the break. You said there was a
3 collective decision not to arrest Ms. Perovich at that
4 time. Who was involved in that decision-making? Was
5 it -- obviously yourself, Sergeant Cattaneo. Did
6 anybody else have any involvement in that decision not
7 to --

8 A. Well, he would be the sergeant on scene, so
9 he --

10 Q. Correct.

11 A. -- he is in charge. And obviously, anyone,
12 if we did arrest them, take them to the station, they
13 are having medical issues, we end up at the hospital
14 anyway, so it really doesn't make any sense.

15 Q. Did you accompany the fire department or EMS
16 to the hospital at the time Ms. Perovich was
17 transferred to the hospital?

18 A. No.

19 Q. Who did?

20 A. Nobody did.

21 Q. Why not? Did you feel she was a threat
22 after this resisting and obstructing felony was
23 committed?

24 A. Well, after the -- after everything that
25 occurred, it was deemed best that she go to the

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1 hospital for her difficulty breathing.

2 Q. Okay.

3 A. And a warrant would be sought later.

4 Q. And you had no response -- you weren't
5 involved in tendering the warrant on Ms. Perovich?

6 A. No, that would be turned over to the
7 detective bureau.

8 Q. Do you know who served the warrant in this
9 case?

10 A. I do not.

11 MR. McQUEENEY: That's it.

12 MR. PEACOCK: I don't have any
13 questions, no.

14 MR. KASZUBSKI: I have no questions.

15 MR. McQUEENEY: For the record, so
16 we know here, and Mr. Peacock brought that up, is
17 including the videotape as an exhibit, obviously, that
18 being physically impossible, what I am going to do is
19 have the videotape transcribed, and the audio portion
20 of the videotape will be incorporated into the
21 testimony taken today as Exhibit 6.

22 MR. PEACOCK: For the record,
23 though, could we have that -- the actual tape marked as
24 an exhibit, though, just so we have it marked as an
25 exhibit?

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1 (Off the record discussion)

2 MR. McQUEENEY: The actual tape will
3 be 7. There will be a transcribed portion that will be
4 Exhibit 6 which will be tendered to Hanson's Court
5 Reporting at some point in the near future.

6 Questions?

7 Good.

8 (The deposition was concluded at
9 12:46 p.m.)

10 DEPOSITION EXHIBITS 6 AND 7
11 WERE MARKED BY THE REPORTER
12 FOR IDENTIFICATION AFTER
13 PROCEEDINGS WERE CONCLUDED

14

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1 CERTIFICATE OF NOTARY

2

3 STATE OF MICHIGAN)

4) SS

5 COUNTY OF ST. CLAIR)

6 I, Rhonda M. Foster, Certified Shorthand Reporter,
7 a Notary Public in and for the above county and state,
8 do hereby certify that the above deposition was taken
9 before me at the time and place hereinbefore set forth;
10 that the witness was by me first duly sworn to testify
11 to the truth, and nothing but the truth, that the
12 foregoing questions asked and answers made by the
13 witness were duly recorded by me stenographically and
14 reduced to computer transcription; that this is a true,
15 full and correct transcript of my stenographic notes so
16 taken; and that I am not related to, nor of counsel to
17 either party nor interested in the event of this cause.

18

19

Rhonda Upchurch



20

21

Rhonda M. Foster, CSR

22

Notary Public,

23

St. Clair County, Michigan

24

25 My Commission expires: March 11, 2015

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1 INDEX TO EXAMINATIONS

2 Witness Page

3 OFFICER ANTOINETTE FETT

4

5 EXAMINATION BY MR. McQUEENEY 3

6

7

8 INDEX TO EXHIBITS

9

10 Exhibit Page

11 (Exhibits attached to transcript)

12

13 DEPOSITION EXHIBIT 1 39

14 DEPOSITION EXHIBIT 2 45

15 DEPOSITION EXHIBIT 3 66

16 DEPOSITION EXHIBIT 4 72

17 DEPOSITION EXHIBIT 5 89

18 DEPOSITION EXHIBITS 6 AND 7 108

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